

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF MASSACHUSETTS

3 UNITED STATES OF AMERICA)
4)
5 vs.) Criminal Action
6)
7 HERZZON SANDOVAL,) No. 15-10338-FDS
8 EDWIN GUZMAN,)
9 CESAR MARTINEZ,)
10 ERICK ARGUETA LARIOS,)
11 Defendants)
12

13 BEFORE: THE HONORABLE F. DENNIS SAYLOR, IV

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JURY TRIAL DAY 7

John Joseph Moakley United States Courthouse
Courtroom No. 2
1 Courthouse Way
Boston, MA 02210

7th day of February, 2018

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I N D E X

1 WITNESS DIRECT CROSS REDIRECT RECROSS
2 JOSE HERNANDEZ MIGUEL

3 By Mr. Pohl 4

	<u>EXHIBITS</u>	<u>FOR I.D.</u>	<u>IN EVIDENCE</u>
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1 TESTIMONY ONLY

2 THE CLERK: All rise for the jury.

3 (JURORS ENTERED THE COURTROOM.)

4 THE COURT: Good morning, ladies and gentlemen.

5 Thank you for your patience and cooperation in starting a
6 little late today. I think my plan is to take one break at
7 about 11:15 or so, but I don't want anyone suffering if you
8 need a break earlier than that, so please raise your hand and
9 we'll take a break and accommodate you.09:34AM 10 Also, before we get started, I just want to check, did
11 any of you see or hear or read anything on the news about this
12 case or about MS-13 in the last 24 hours? Okay. Everyone is
13 shaking their head. All right. Thank you.

14 Mr. Pohl, whenever you're ready.

15 MR. POHL: Thank you very much, your Honor.

16 JOSE HERNANDEZ MIGUEL, RESUMED

17 DIRECT EXAMINATION

18 BY MR. POHL:

19 Q. Good morning, Mr. Hernandez Miguel.

09:35AM 20 A. Good morning.

21 Q. Sir, when we left off yesterday, you had arrived in the
22 Boston area, and we were talking about the time period around
23 2007. Do you remember that?

24 A. Yes.

25 Q. All right. And we had gone through several photos of

1 people that you met in your time in the Boston area. I'm
2 going to pull those up again just to orient us for your
3 testimony here today starting with Exhibit 2.

4 THE CLERK: Admitted, correct?

5 MR. POHL: Correct. All of these have been admitted,
6 Madam Clerk. Thank you.

7 THE CLERK: Thank you.

8 A. Okay.

9 Q. Exhibit 2, who is that?

09:36AM 10 A. Casper.

11 Q. Exhibit 3?

12 A. Playa.

13 Q. Exhibit 4?

14 A. Checha.

15 Q. Exhibit 5?

16 A. Lobo.

17 Q. Exhibit 7?

18 A. Tigre.

19 Q. Exhibit 8?

09:36AM 20 A. Brujo.

21 Q. Exhibit 9?

22 A. Animal.

23 Q. Exhibit 10?

24 A. Vincentino.

25 Q. Exhibit 11?

1 A. Caballo.

2 Q. Before we go any further, Mr. Hernandez Miguel, the person
3 you've identified in photograph 2 as Casper, do you see that
4 person in court?

5 A. Yes, in the white shirt back there.

6 MR. POHL: I ask that the record reflect that
7 Mr. Hernandez Miguel has identified Mr. Sandoval.

8 THE COURT: Yes.

9 Q. Mr. Hernandez Miguel, the photograph you identified as
09:37AM 10 Playa, Exhibit 3, do you see Playa in court?

11 A. Yes, that's him. He's wearing a jacket.

12 MR. POHL: I ask that the record reflect that
13 Mr. Hernandez Miguel has identified Mr. Guzman.

14 THE COURT: Yes.

15 Q. Mr. Hernandez Miguel, do you see the person you identified
16 in Exhibit 4, Checha, in court?

17 A. Yes, over there.

18 MR. POHL: I ask that the record reflect that
19 Mr. Hernandez Miguel has identified Mr. Martinez?

09:38AM 20 THE COURT: Yes.

21 Q. Finally, Mr. Hernandez Miguel, when you looked at the
22 photograph in Exhibit 5, Lobo, do you see Lobo in the
23 courtroom?

24 A. Yes. Right here in front.

25 MR. POHL: I ask that the record reflect that

1 Mr. Hernandez Miguel has identified Mr. Agueta Larios.

2 THE COURT: Yes.

3 MR. POHL: Thank you.

4 Q. So, Mr. Hernandez Miguel, when you began -- tell me about
5 when you finally settled in the Boston area. Did you begin to
6 meet with Casper and Playa and the other members of the
7 Eastside clique?

8 A. Yes, when I first came in 2007 here, I started hanging out
9 with some dudes in Somerville, and within a short time, months
09:39AM 10 later, I went with several other dudes to Tecolote's house,
11 and --

12 THE INTERPRETER: I didn't understand the name of the
13 street, but --

14 A. In Everett. And I saw Casper and Playa again there.

15 Q. And what happened when you saw Casper and Playa again?

16 MR. IOVINO: Objection, your Honor. This is
17 repetitive.

18 THE COURT: I'll allow it within reason. Overruled.

19 A. We were hanging out there, and I began meeting more dudes
09:40AM 20 from Eastside, and since I was already from barrio and Casper
21 said to me one day that since my clique was not in
22 Massachusetts, why didn't they take the word with the Eastside
23 members -- and the word, taking the word meant that I had to
24 follow all of the rules of the clique.

25 MR. MURPHY: Objection, your Honor.

1 THE COURT: Hold on, hold on, hold on. We'll stop the
2 answer there. Let's put another question to the witness.

3 MR. POHL: Thank you, your Honor.

4 Q. So, Mr. Hernandez Miguel, Casper told you you had to
5 follow the rules of the clique?

6 MR. MURPHY: Objection, your Honor, leading.

7 THE COURT: Well, he's paraphrasing what the witness
8 has answered. Overruled.

9 A. Yes.

09:41AM 10 Q. Okay. What did Casper tell you were the rules of the
11 clique?

12 A. The rules were that I had to attend the meetings and that
13 I would be aware of all of the problems and all of the
14 movements of the clique. And although I wasn't jumped in with
15 the Eastside, but I was going to run with them as though I had
16 been because I had been jumped into the clique in California.

17 Q. What did you mean by "run with them"?

18 MR. MURPHY: Objection, your Honor.

19 THE COURT: Overruled.

09:42AM 20 Q. Mr. Hernandez Miguel, you can answer. What did you mean
21 when you said "run with the clique"?

22 A. In other words, that I give them my word, and my word
23 meant that I would now represent the Eastside clique and that I
24 would no longer be representing my own clique because when I'd
25 meet other dudes, I would no longer say I belong to the Seaside

1 clique, but I would say I was with the Eastside Locos. That's
2 what it means to have the word with them.

3 Q. Did you talk with Casper about what it meant to be a
4 member of MS-13?

5 A. I don't understand the question.

6 Q. Okay. Well, when you and Casper talked about the Eastside
7 clique and you met Casper, did you talk about what it means to
8 be a member of MS-13?

9 MR. IOVINO: Objection, your Honor, leading.

09:43AM 10 THE COURT: Overruled.

11 A. Yes.

12 Q. Okay. And what did Casper and you discuss about that?

13 A. That when one is jumped into MS-13, one is aware that one
14 is jumped in to kill or to look for chavalas.

15 MR. MURPHY: Objection, your Honor.

16 THE COURT: Overruled.

17 A. That's the main mission of MS-13, to kill chavalas.

18 Q. You used the word "chavalas." What's a chavala?

19 A. Those are the 18s, which is the rival gang of MS-13.

09:44AM 20 Q. Did you talk about -- you talked about meetings, correct?

21 A. Yes.

22 Q. Okay. And what did Casper say to you about meeting with
23 the clique?

24 A. That I was going to run like a member of the clique.

25 Q. Did you begin to meet with members of the Eastside clique?

1 A. Yes.

2 Q. And again, in this time frame around 2007, who did
3 you -- who were the members of Eastside that you would attend
4 meetings with?

5 A. Casper, Playa, Loquillo was there, Rebelde, Ducky, Spooky
6 was there. There were more. I don't recall right now.

7 Q. Okay. So when you went to clique meetings, did you have
8 to do anything?

9 A. I don't understand the question.

09:46AM 10 Q. I don't blame you. That was a bad question. Did you ever
11 have to -- did you bring money to the clique meetings?

12 A. Every member of the clique has to pay dues.

13 Q. Okay. And how did you know that?

14 A. Because once you are jumped into MS and you go to
15 meetings, you have to pay dues to pay for the expenses of MS.

16 Q. And when do you pay those expenses?

17 A. How much?

18 Q. Well, you do that at the clique meetings?

19 A. Yes.

09:47AM 20 Q. And how much money do you have to bring or contribute at
21 the clique meetings?

22 A. For the Eastside clique, whoever was working would pay \$30
23 and whoever was not working would pay \$20.

24 Q. How often would you meet? Again, we're talking about
25 2007, early on in your time here in the Boston area?

1 A. We would meet each month. If there are conflicts or if
2 there's a reason why we need to collect more money, we would
3 meet twice a month, every two weeks, and if there's something
4 serious happening in the clique, then we would have to meet
5 each week.

6 Q. Okay. You said that the money went to the business of MS.
7 What do you mean by that? What does the money go for?

8 MR. LOPEZ: Objection, your Honor. Foundation.

9 Q. Well, let me ask you this question first. Did you discuss
09:49AM 10 where the money went -- excuse me. Did you discuss what the
11 money was for in your clique meetings?

12 A. Yes.

13 Q. Okay. And was Casper at those meetings?

14 A. Always.

15 Q. Playa?

16 A. Yes.

17 Q. All right. So, when you would bring money to the clique
18 meetings, would you discuss what the money was going to be used
19 for?

09:49AM 20 A. Yes.

21 Q. Okay. And what would the money be used for?

22 MR. LOPEZ: Objection, your Honor.

23 THE COURT: Well, he can -- I'll let him testify as to
24 what other people said in those meetings. Why don't we start
25 there.

1 Q. What did -- did Casper and Playa talk about where the
2 money went?

3 A. Yes.

4 Q. Okay. What did they tell you the money was being used
5 for?

6 A. Playa, who was second word, was the one in charge of the
7 money, so the money was used to buy guns and guns for the
8 clique and to help the dudes that are in jail in El Salvador
9 and here as well.

09:50AM 10 Q. Okay. You talked about Playa was in charge of the money?

11 A. Yes.

12 Q. How did you know that? What did you see at the clique
13 meetings that let you think that Playa was in charge of the
14 money?

15 A. He was in charge of the money. He was like the accountant
16 or treasurer of the clique. He's the one that would collect
17 the dues, and he's the one who kept track of who owed money and
18 who had paid. He always kept that on his telephone. Whenever
19 we'd have a meeting and somebody owed money, he would say, oh,
09:52AM 20 so and so owes this much. And each time the money was used,
21 for instance, sending the money to El Salvador, he would report
22 how much had come out of the box and how much was left.

23 Q. Okay. So I'm going to ask you a couple questions about
24 that answer. Let's start where you just left off. Playa
25 collected the money?

1 A. Yes.

2 Q. All right. Was there someone in the clique whose job it
3 was to send the money to El Salvador?

4 A. Yes.

5 Q. And was it more than one person?

6 A. Yes.

7 Q. All right. And what kinds of people? Do you remember the
8 names of some of the people in the Eastside clique that would
9 send money to El Salvador?

09:53AM 10 A. I do remember who they were, but it wasn't during that
11 period.

12 Q. I see.

13 A. For instance, Checha was sometimes told by the dudes to
14 send money to El Salvador, so was Negro, so was Vincentino.

15 Q. Okay. Maybe I'm asking you a question that's not bounded
16 by this early 2008 period, but --

17 THE COURT: Well, you --

18 MR. POHL: Well, I'll come back to that.

19 THE COURT: Why don't you start over.

09:53AM 20 Q. You said in addition to the money being sent to
21 El Salvador, you said that the money went for guns?

22 A. Yes.

23 Q. And I think you said for clique guns?

24 A. Yes.

25 Q. What did you mean by that? What's a clique gun?

1 A. That's a clique gun is a gun that the clique buys but any
2 homeboy in the clique can use.

3 Q. Would the clique guns be stored in a particular place?

4 A. Yes, one of the dudes always had it.

5 Q. How would other people in the clique know about the gun?

6 MR. MURPHY: Objection, your Honor.

7 THE COURT: Why don't you rephrase.

8 Q. Well, Mr. Hernandez Miguel, during the time that you were
9 in the Eastside clique, did you ever have possession of a
09:55AM 10 clique gun?

11 A. Could you repeat the question, please?

12 Q. Sure. Did you ever have -- did you ever possess or have a
13 clique gun?

14 A. Yes.

15 Q. All right. And did you talk about -- and when was that?

16 A. When I was arrested, I had the clique gun.

17 Q. Okay. And did you talk about the fact that you had the
18 clique gun with other members of the Eastside clique?

19 A. Yes.

09:56AM 20 Q. And when did you do that?

21 A. Well, first when we bought the gun, Negro had the gun, so
22 then Pelon and I went to get the gun from there. And I told
23 Pelon to say that he had the gun at his house but that I would
24 keep it in my house so that no one would know that I had the
25 gun. Later on, I told them that I had the gun in my house.

1 Q. All right. That's my point. Did you talk about the fact
2 that you had the gun with other members of the clique?

3 A. Yes.

4 Q. So, I want to talk -- let me start this way. At some
5 point after you arrived in Boston, all right, you were
6 deported, correct?

7 A. Yes.

8 Q. And when was that?

9 A. In 2009.

09:58AM 10 Q. All right. So I want to ask you about incidents that you
11 were involved in before you were deported.

12 A. Okay.

13 Q. You've talked about the mission of MS-13?

14 A. Yes.

15 Q. And did you -- before the time that you were deported, did
16 you commit any violent assaults with members of the Eastside
17 clique?

18 A. Yes.

19 Q. Okay. Do you remember one that involved a beer bottle?

09:58AM 20 MR. MURPHY: Objection, your Honor. Leading.

21 THE COURT: I'll allow that. Overruled.

22 Q. Do you remember one that involved beer bottles?

23 A. Yes.

24 Q. Okay. And what can you -- what do you remember about that
25 assault?

1 A. At that time I lived in Maverick by -- in Everett, and we
2 had talked with Playa that we were going to go hang out with
3 the dudes in Revere, and Playa said that, yeah, that he would
4 come pick me up so that we could go there. So he picked me up,
5 and before we left Boston going towards Revere under some
6 bridges there, I saw a chavala walking all dressed in red, and
7 I said to Playa, that's another bitch, it is a chavala, we have
8 to attack him. And we had some beer bottles, like Heinekens
9 that we were drinking, and so I told Playa to pull over to one
10:00AM 10 side of the street, and I got out of the car, and I chased the
11 chavala and I yelled to him, "What's up? This is
12 Mara Salvatrucha."

13 So when that guy heard that, he tried to run away
14 under the bridges, and I chased him until I caught him, and I
15 smashed his face with a bottle. He was on the floor when Playa
16 came, and he also had a beer bottle and he also smashed it in
17 his face. And we started kicking the guy and the guy was just
18 trembling there, and so then we ran back to the car and we went
19 to Revere.

10:01AM 20 Q. Did you see the man on the ground after you and Playa had
21 smashed his face with beer bottles?

22 A. Yes.

23 Q. What did he look like?

24 A. He was all bloody. He was covered in blood. I just saw
25 the guy shaking.

1 Q. You said that the man you and Playa attacked was wearing
2 red?

3 A. Yes.

4 Q. Okay. Why is the color red significant?

5 A. Because only chavalas use red.

6 Q. Does MS-13 have particular colors?

7 A. Yes.

8 Q. And what are those?

9 A. It's the MS color is blue and white.

10:02AM 10 Q. I'm not going to approach, but I'm just going to hold up
11 what's been introduced as Exhibit 94, the red shirt.

12 A. Yes.

13 Q. Is this the kind of thing that a chavala would wear?

14 A. Yes.

15 Q. Do you recall an incident involving chavalas on a bus?

16 A. Yes.

17 Q. And what do you remember about that?

18 A. We were hanging out at Checha's house, and the dude that
19 was called Gaspirin called, he called Renegado and asked --

10:04AM 20 MR. NORKUNAS: Objection.

21 THE COURT: I'm sorry.

22 MR. NORKUNAS: I have any objection to any content of
23 any telephone call received.

24 THE COURT: All right.

25 MR. POHL: I can ask another question. Thank you,

1 your Honor.

2 Q. So there was a telephone call that came in. Now, let me
3 ask you another question. After the phone call came in --

4 THE INTERPRETER: I'm sorry.

5 Q. After the phone call came in, what did you do next?

6 A. Gaspirin called Renegado and asked him where he was.

7 THE COURT: Again, I'll ask the witness not to talk
8 about the content of the phone call but what happened after the
9 call.

10:05AM 10 Q. So the phone call came in, then the phone call ended,
11 okay. And after the phone call ended, what happened next?

12 A. Gaspirin wanted to come to the house where we were hanging
13 out, and so he told that guy.

14 MR. NORKUNAS: Objection.

15 THE COURT: Well, sustained.

16 MR. POHL: Thank you, your Honor.

17 Q. All right. Let me do it this way, Mr. Hernandez Miguel.
18 Okay. After the phone call is done -- well, let me ask you
19 this. When the phone call comes in, where are you, not what
10:05AM 20 was said, just where were you?

21 A. We were at Checha's house.

22 Q. Okay. Then the phone call comes in and the person who
23 answers the phone is also at Checha's house, he's also at
24 Checha's house?

25 A. Yes.

1 Q. And the person who answers the phone is who?

2 A. I don't understand.

3 Q. Who is the person that gets the phone call?

4 A. Renegado.

5 Q. Okay. Now, the phone call ends. So after the phone call
6 ends, what do you do?

7 A. Gaspirin said to go wait in Maverick because there was
8 some chavalas --

9 MR. LOPEZ: Move to strike.

10:06AM 10 MR. NORKUNAS: Move to strike.

11 THE COURT: Sustained. Let me try to explain to the
12 witness. I don't want you to say what Gaspirin said. I want
13 you to talk about what you did after Renegado got the call,
14 okay, so ask another question.

15 Q. I'm going to take Judge Saylor's question. What did you
16 do after you got that phone call?

17 A. I went to find, to meet with Gaspirin.

18 Q. Okay. Where was that?

19 A. At Maverick.

10:07AM 20 Q. And when you say Maverick, what do you mean exactly?

21 A. On Chelsea Street is Maverick. That's where the station
22 is, the Maverick Station.

23 Q. The T station?

24 A. Yes.

25 Q. Okay. And how close is Checha's house to the T station in

1 Maverick?

2 A. About two blocks.

3 Q. Okay. And so you went to the T station?

4 A. Yes.

5 Q. Who went with you?

6 A. Loquillo was there, Checha, and Renegado.

7 Q. Why were you at the Maverick T Station?

8 MR. NORKUNAS: Objection, Judge.

9 THE COURT: Sustained. Isn't that going to get us
10:08AM 10 right back to where we --

11 Q. Well, when you got to the T station, what happened next?

12 A. When we got to the train station, the chavalas did not get
13 off, they stayed on the bus. So the dude got out, and we
14 started walking back, and as we were walking back, we met up
15 with Caballo. He asked us what we were doing there, and we
16 told him that --

17 MR. NORKUNAS: Objection.

18 A. -- supposedly --

19 MR. POHL: Why don't you put another question.

10:09AM 20 THE COURT: Okay.

21 Q. So you were walking, and you told him what you were doing
22 there?

23 A. Yes.

24 Q. What's the next thing that you did?

25 A. As we were walking back, there were two kids, two chavalas

1 walking because we were walking with two dudes on one side of
2 the street and two dudes on the other side of the street. So
3 when we saw the two kids walking towards us dressed in red, we
4 flashed the MS sign, and when we flashed the MS sign, they
5 started running.

6 MR. NORKUNAS: The question --

7 THE COURT: I think the question was what's the next
8 thing that you did.

9 Q. You flashed the MS sign at them?

10:10AM 10 A. Yes.

11 Q. Okay. What sign did you flash?

12 A. Like this, La Mara. (Indicating)

13 Q. And after you flashed that sign, what did the chavalas do?

14 A. One ran away, one ran towards the back, and one tried to
15 cross the street. We followed the one that tried to cross the
16 street, and we got him in the middle of the street. That's
17 when we started beating him up.

18 Checha had a machete, I had a bat, Renegado had a
19 knife, and Loquillo did as well. And as we were beating up
10:11AM 20 that guy, a taxi drove by, and he started honking at us to let
21 him go. After that happened, we ran to -- we ran away to
22 Checha's house, and that's when Checha said there was blood --

23 MR. NORKUNAS: Objection, your Honor.

24 THE COURT: Hold on. Let's put another question.

25 MR. POHL: All right.

1 Q. All right. You said you went back to Checha's house?

2 A. Yes.

3 Q. Who's we? Who went back to Checha's house?

4 A. All of us.

5 Q. You, Checha, Renegado, Loquillo?

6 A. Yes, and Gaspirin also was with us.

7 Q. All right. So let me ask you this. Did the police come
8 to Checha's house?

9 A. Yes. They started knocking on the door, so we turned off
10:12AM 10 all the lights and stayed really quiet inside, and a woman was
11 knocking at the door and talking. And since no one made any
12 noise inside and no one opened the door, somebody else was sent
13 to knock on the door, but since no one opened the door, they
14 stayed outside. I think they were detectives.

15 Q. So how long -- well, let me ask you this. Eventually that
16 night, did you leave Checha's house?

17 THE INTERPRETER: I'm sorry.

18 Q. Did you leave Checha's house?

19 A. One-by-one ran away.

10:13AM 20 Q. Okay. Do you remember how you -- do you remember how you
21 left Checha's house or how you got away from Checha's house?

22 A. Yes.

23 Q. How was that?

24 A. I called Playa and told him what had happened and that the
25 area was hot. So Playa told me to call a taxi and that he

1 would pay for it, so I called the taxi and I told the taxi to
2 take me over to Eastern Avenue in Chelsea. There's a car wash
3 there and Playa picked me up there.

4 Q. Mr. Hernandez Miguel, do some MS members have tattoos?

5 A. Yes.

6 Q. Are there rules for -- in MS-13 for what -- for who can
7 have a tattoo?

8 A. Yes.

9 Q. So -- and are there rules for who can wear the colors of
10:15AM 10 MS-13?

11 A. If he's a homeboy, he can use it.

12 Q. Okay. He can use what?

13 A. The colors of the blue, the white, the Nike Cortez.

14 Q. What's the significance of the Nike Cortez?

15 A. Supposedly only gang members can use Nike Cortez because
16 allegedly Nike Cortez was invented by a gang member in L.A.

17 Q. What are the rules for when an MS-13 member can get a
18 tattoo?

19 A. Well, he has to have done something, something else for
10:16AM 20 the MS after he's been jumped in to gain further respect from
21 the homeboys.

22 Q. All right. When you were arrested in this case, did you
23 have an MS-13 tattoo?

24 A. Yes.

25 MR. POHL: Exhibit 15 for the witness only, Madam

1 Clerk. Thank you.

2 Q. Do you see that, Mr. Hernandez Miguel?

3 A. Yes.

4 Q. Is that you?

5 A. Yes.

6 Q. Do you have a tattoo on your chest?

7 A. Yes.

8 Q. Okay. Is that how -- is that picture of your chest
9 accurate as to how you looked when you were arrested in this
10 case?

10:17AM 10 A. Yes.

11 MR. POHL: I'd offer 15, your Honor.

12 THE COURT: All right. It's admitted.

13 (Exhibit No. 15 received into evidence.)

14 Q. I've blown up a section of Exhibit 15. What is this,
15 Mr. Hernandez Miguel?

16 A. The M and the S.

17 Q. Did you -- when did you get that tattoo?

18 A. Towards the end of 2013.

19 Q. And where did you get the tattoo?

20 A. One day I went to hang out at Risi's house and Parine was
21 there, he's the one that does the tattoos, and he was, in fact,
22 doing, making tattoos there. I was drinking, and I asked him,
23 "Hey, what's up, can you do the MS for me?" But first I had to
24 ask permission to do it. I had to ask permission.
25

1 Q. From who?

2 A. From the runners of my clique.

3 Q. And who is that?

4 A. Casper and Playa, and they told me that --

5 MR. LOPEZ: Objection, your Honor.

6 THE COURT: Overruled.

7 A. -- to go ahead and do it.

8 Q. Mr. Hernandez Miguel, are there other members of the
9 Eastside clique that have MS-13 tattoos?

10:19AM 10 A. Yes.

11 Q. And have you seen those tattoos?

12 A. Yes.

13 Q. You'd recognize them if you saw them?

14 A. Yes.

15 MR. POHL: For the witness, Madam Clerk. Thank you.

16 Q. I'm putting up what is marked as Exhibit 126. Do you
17 recognize those?

18 THE INTERPRETER: I'm sorry, what was the question?

19 Q. Do you recognize those photographs, Mr. Hernandez Miguel?

10:19AM 20 A. Yes.

21 Q. And what do you recognize it as?

22 A. They're like two cholos flashing MS.

23 Q. Okay. And do you know who has this tattoo?

24 A. Yes.

25 Q. Who?

1 A. Casper.

2 MR. POHL: I'd offer 126.

3 THE COURT: All right. It's admitted, 126.

4 (Exhibit No. 126 received into evidence.)

5 Q. Mr. Hernandez Miguel, what are we looking at here? Let's
6 start with the left-hand picture first.

7 THE INTERPRETER: I'm sorry.

8 Q. Let's start with the picture on the left-hand side.

9 A. This one here?

10:20AM 10 Q. Yes.

11 A. That's the M.

12 Q. You're making a motion with your hand, but it's down low.

13 Can you pull up your hands?

14 A. He's flashing it like this, the M.

15 Q. Is that it?

16 A. Yes.

17 Q. Thank you. All right. Let's go to the right. First,
18 let's start with the figure. Do you see what that person is
19 doing?

10:21AM 20 Q. Yes.

21 Q. What is it?

22 A. It's the S.

23 Q. I've blown it up for the record. Do you see the S there?

24 A. Yes.

25 Q. All right. There's also -- I want to look at the left

1 hand -- there's a marking on the other side of the figure,
2 okay. Do you recognize those? Do you recognize that?

3 A. Yes.

4 Q. What is it?

5 A. That's the Eastside clique.

6 Q. ESLS?

7 A. Yes.

8 MR. POHL: For the witness only, Madam Clerk.

9 Q. I'm putting up what's been marked as Exhibit 16. Do you
10:22AM 10 recognize this?

11 A. Yes.

12 Q. How do you recognize it?

13 A. It's a 13.

14 Q. And who has that tattoo?

15 A. Playa.

16 MR. POHL: I'd offer 16.

17 THE COURT: All right. It's admitted, Exhibit 16.

18 (Exhibit No. 16 received into evidence.)

19 Q. Mr. Hernandez Miguel, can you tell me what we're looking
10:23AM 20 at here with Playa's tattoo?

21 A. On the bottom is Number 13 and above that is a cross with
22 hands like this. (Indicating)

23 Q. And above that?

24 THE INTERPRETER: I'm sorry.

25 Q. And above that?

1 A. Above that it's like a dude had died, and that's why that
2 was made.

3 MR. POHL: For the witness only, 17.

4 Q. Do you see that, Mr. Hernandez Miguel? It's been marked
5 as Exhibit 17.

6 A. Yes.

7 Q. Okay. Do you recognize the tattoo in that photograph?

8 A. Yes.

9 Q. What is it?

10:24AM 10 A. Also the Eastside clique.

11 Q. Okay. Do you remember who had that tattoo?

12 A. Yes.

13 Q. Who?

14 A. Brujo.

15 MR. POHL: I'd offer 17.

16 THE COURT: All right. It's admitted.

17 (Exhibit No. 17 received into evidence.)

18 Q. This is Brujo's tattoo?

19 A. Yes.

10:24AM 20 Q. And who is Brujo?

21 A. He's a member of Eastside clique.

22 Q. All right. You testified earlier that in 2009 you got
23 deported?

24 A. Yes.

25 Q. When you were arrested by immigration and deported, where

1 were you deported back to?

2 A. To El Salvador.

3 Q. Where did you go when you were deported back to
4 El Salvador?

5 A. La Union.

6 Q. Why did you go there?

7 A. Because that's where my family lives.

8 Q. While you were in El Salvador, did you have contact with
9 members of the Eastside clique?

10:25AM 10 A. Yes.

11 Q. Who?

12 A. With Casper, Playa, Loquillo, and there were other dudes
13 as well.

14 Q. Did you ever receive anything from members of the Eastside
15 clique while you were in El Salvador?

16 A. From the Eastsides.

17 Q. Yes.

18 A. Yes.

19 Q. What?

10:26AM 20 A. Money. They also sent me money to buy a gun so that I
21 would have my personal one because I had told them that I had a
22 problem and that someone had tried to kill me, so that's why.

23 Q. Okay. So how did you get the money?

24 A. It was sent to me by them through Western Union.

25 Q. Okay. And when you got the money, did you use it to buy a

1 gun?

2 A. Yes, I bought a gun.

3 MR. LOPEZ: Objection, your Honor, move to strike
4 whatever that was. There's no question before him.

5 THE COURT: All right. Let's put another question to
6 him.

7 MR. POHL: Thank you, your Honor.

8 Q. Mr. Hernandez Miguel, how long did you stay in
9 El Salvador?

10:27AM 10 A. About two years.

11 Q. What happened after you -- well, what happened next?

12 A. I came back here.

13 Q. Okay. How did you come back to the United States?

14 A. Well, first I crossed Guatemala, then I crossed into
15 Mexico, and over there around Piedras Negras. I got a coyote
16 only to cross the border.

17 Q. Does a coyote cost money?

18 A. Yes.

19 Q. And how much money was the coyote asking for to get you
10:29AM 20 across the border from Mexico to the United States?

21 A. \$3,500.

22 Q. Did you have \$3,500?

23 A. I didn't have the whole amount, but my sister was the one
24 that was going to pay, so I asked her to do a three-way for me
25 so that I could talk with the dudes from the clique.

1 Q. Did that happen?

2 A. Yes.

3 Q. Maybe everybody knows, but what's a three-way call?

4 A. Well, I called my sister, and I told her to dial a number
5 that was one of the dude's number.

6 Q. Do you remember who that was?

7 A. Yes.

8 Q. Who was it?

9 A. Playa.

10:30AM 10 Q. Why did you want your sister to call Playa?

11 A. Because Playa was the one in charge of the money, and he
12 was also one of the runners.

13 Q. Okay. And what happened -- well, did you speak to Playa
14 through that three-way call?

15 A. Yes.

16 Q. Okay. What did you say to Playa?

17 MR. LOPEZ: Your Honor, could we have a time frame on
18 this call?

19 MR. POHL: Sure.

10:30AM 20 Q. So you were deported in 2009, right?

21 A. Yes.

22 Q. And you said you stayed in El Salvador about two years?

23 A. Yes.

24 Q. Would it be fair to say that this is an approximation by
25 you? It's approximately two years?

1 A. Yes.

2 Q. Okay. And then approximately two years after you were
3 deported, you came back to the United States?

4 A. Yes.

5 Q. When you got to the border is when you met the coyote?
6 When you got to the border, the Mexican-U.S. border is when you
7 met the coyote?

8 A. Yes.

9 Q. And that's when you had the three-way call with Playa?

10:31AM 10 A. Yes.

11 Q. Okay. Now, what did you say to Playa on the call?

12 A. Well, that I was on the border and to tell the dudes that
13 I needed help in order to cross.

14 Q. Okay. How -- what kind of help did you need?

15 A. Money.

16 Q. How much money did you need to pay the coyote?

17 A. I needed \$1,000 more.

18 Q. Okay. What did Playa say to you?

19 A. Playa told me he would speak with a couple of dudes
20 because there wasn't a lot of money in the box but that he
21 would speak with a couple of dudes to do me the favor because
22 they didn't know that I was on my way already.

23 Q. All right. After that conversation, what happened?

24 A. Playa took \$1,000 to my sister.

25 Q. And how did that money get to you?

1 A. Well, since it was clique money and the clique has a rule
2 that if a dude is deported to El Salvador and he's a member of
3 the Eastsides, that the clique is obliged to bring him back to
4 the United States.

5 Q. So, I think you said Playa gave your sister money?

6 A. Yes.

7 Q. Okay. And what happened with that money? Where did that
8 money go?

9 A. It was with that money that we paid the coyote to cross
10:34AM 10 me.

11 Q. Okay. Where did you cross from Mexico back into the
12 United States, Mr. Hernandez Miguel?

13 A. At Piedras Negras.

14 Q. Where is that?

15 A. It's on the border in Mexico.

16 Q. Okay. Once you got back into the United States, where did
17 you go?

18 A. I came here to East Boston.

19 Q. And what happened when you got back?

10:34AM 20 A. I came back on a Thursday and then the dudes had a meeting
21 on that Sunday or Saturday and so I -- that's when I returned.

22 Q. Okay. And when the dudes had a meeting, do you remember
23 where that was?

24 A. At Chuchos.

25 Q. Okay. Who was there?

1 A. Casper was there, Playa, Checha, Chucho, Caballo was
2 there, and there were other dudes.

3 Q. Okay. So once you came back and had that meeting, did you
4 again begin to meet with the Eastside clique?

5 A. Yes.

6 Q. Now, before you were deported and when you were going to
7 Eastside meetings, had the members of the Eastside clique
8 jumped you in and made you a member?

9 A. No.

10:36AM 10 Q. Okay. And why was that?

11 A. Because I already belonged to a clique in L.A., and you
12 can't be jumped in twice.

13 Q. But when you came back this time after you had been
14 deported and you again began to meet with the members of the
15 ESLS, did they do anything to you then?

16 A. Yes.

17 Q. And what was that?

18 A. Because since I had a clique in L.A. and I had asked them
19 for help while I was in El Salvador and I was told that most of
10:37AM 20 them had already been deported and that I had permission if I
21 wanted to jump into a different clique.

22 Q. Did you do that?

23 A. Yes.

24 Q. What clique did you jump into?

25 A. Eastsides.

1 Q. Where were you jumped in?

2 A. In Cambridge near where some movie theaters are in a big
3 parking lot. We always had meetings there in the summertime.

4 Q. So, tell me about that. Tell me about how you got beat
5 into the Eastside clique.

6 A. We got to the meeting, and I was told that they were going
7 to leave me like that, that they weren't going to beat me, that
8 they were just going to make like I was already jumped in.

9 But there was a dude there that had been jumped into
10:38AM 10 the Fultons. He was called Risi. He also has the word with
11 the Eastsides here. And he said that it wouldn't look good if
12 I wasn't beaten into the jump-in, that I had to be jumped in
13 again, and so that's what happened, and I was jumped in again.

14 Q. Okay. Who beat you during your jump-in?

15 A. Flecha, Caballo, and Risi.

16 Q. And when someone is jumped in, they count to 13?

17 A. Yes.

18 Q. Do you remember who counted during your jump-in to the
19 Eastside clique?

10:39AM 20 A. Yes.

21 Q. Who was that?

22 A. Casper.

23 Q. How often did you -- when you got back into the Eastside
24 clique, when you came back after you had been deported, how
25 often did you meet with the members of the Eastside clique?

1 A. On the weekends, and if there was the opportunity, during
2 the week as well.

3 Q. And --

4 MR. POHL: Can I have Exhibit 1 for the witness, which
5 is admitted.

6 Q. Do you recognize this, Mr. Hernandez Miguel?

7 A. Yes.

8 Q. What is it?

9 A. That's the garage, by the garage in Everett where we used
10:41AM 10 to hang out.

11 MR. POHL: Okay. This is 1.2.

12 Q. Is that the garage?

13 A. That's the garage.

14 Q. Okay. So, do you remember when you -- well, you said
15 that's where you and the members of the clique used to hang
16 out. What exactly did you do at this garage?

17 A. We had the meetings there.

18 Q. Do you remember when you began -- first began to have
19 meetings at the garage in Everett?

10:41AM 20 A. No.

21 Q. Okay. Was it after you came back to the United States
22 from being deported?

23 A. Yes.

24 Q. I think you said yesterday that you had met Casper, Playa
25 and Checha before you were deported, correct?

1 THE INTERPRETER: Could you repeat the question for
2 the interpreter?

3 MR. POHL: Of course.

4 Q. I think you testified yesterday that you had met Casper,
5 Playa, and Checha before you were deported?

6 A. Yes.

7 MR. POHL: And if I could have Exhibit 5.

8 Q. Lobo?

9 A. That's Lobo.

10:42AM 10 Q. Okay. When did you meet Lobo?

11 A. I met him around 2013.

12 Q. Where did you meet him?

13 A. I hardly hung out with him when he was running with the
14 dudes. I met him after he was jumped in. That's when I got to
15 know him better because Lobo was run by Casper and Playa.

16 Q. Were you present when Lobo was jumped into the clique?

17 A. No.

18 Q. Okay. Was it your understanding that he was jumped in
19 before you came back to the United States?

20 10:43AM MR. IOVINO: Objection, your Honor. Leading.

21 THE COURT: Overruled.

22 A. No, he was jumped in when I was here.

23 Q. Okay. You just weren't at the meeting?

24 A. It wasn't at a meeting. Suddenly I found out that -- they
25 told me that Lobo had jumped in, and I didn't know who Lobo

1 was.

2 Q. And that's when you met him?

3 A. Yes.

4 MR. POHL: Can I have Exhibit 19 for the witness.

5 Q. Do you see that, Mr. Hernandez Miguel?

6 A. Yes.

7 Q. What is that?

8 A. It's Lobo.

9 THE CLERK: 19 is in.

10:44AM 10 Q. Is there somebody with Lobo in the picture?

11 A. Yes.

12 Q. Is that?

13 A. Lablita.

14 Q. Who is Lablita?

15 A. She used to hang out with the dudes.

16 MR. POHL: I'd offer this as Exhibit 19.

17 MS. LAWRENCE: It was in yesterday.

18 THE COURT: It's already admitted.

19 Q. Mr. Hernandez Miguel, the hand gestures, do you recognize
10:45AM 20 those in the photograph?

21 A. Yes.

22 Q. What is it?

23 A. He's flashing the MS.

24 Q. Mr. Hernandez Miguel, did you -- when you were back from
25 being deported and had rejoined the ESLS clique, did you meet

1 an individual that you knew as Pelon?

2 A. Yes.

3 Q. Do you remember when you first met Pelon?

4 A. Around 2013.

5 Q. And do you remember where you met him?

6 A. I met him through Vincentino.

7 Q. When you met Pelon in 2013 through Vincentino, did you
8 spend time with him?

9 A. Yes.

10:46AM 10 Q. And how often would you see Pelon?

11 A. Every day.

12 Q. And would Pelon be with other members from the Eastside
13 clique?

14 A. Yes, I started taking him to hang out with the dudes.

15 Q. When you were getting to know Pelon, would there be times
16 when Pelon would go to buy drugs?

17 A. Yes.

10:47AM 18 Q. Did you and Pelon ever talk about -- well, let me strike
19 that. When Pelon would go to buy drugs, was there ever a time
when you introduced him to a drug dealer you knew?

21 THE INTERPRETER: I'm sorry, could you repeat this?

22 Q. Was there a time when you introduced Pelon to a drug
23 dealer you knew?

24 A. Yes.

25 Q. Who was that?

1 A. Gordo.

2 Q. Who's Gordo?

3 A. His name was Cesar Martinez.

4 Q. And what did Gordo sell?

5 A. Excuse me. His name was Manuel Martinez.

6 Q. What did -- did you use his nickname or street name of
7 Gordo?

8 A. Yes.

9 Q. That's how you knew him?

10:48AM 10 A. Yes.

11 Q. All right. Did you know what Gordo -- what kind of drugs
12 did Gordo sell?

13 A. Cocaine.

14 Q. How did you know that?

15 A. Because he was introduced to me by Checha.

16 MR. LOPEZ: Objection, your Honor. There's no
17 question. The question was who introduced you, he answered it,
18 then he kept talking.

19 THE COURT: All right. Put another question to him.

10:49AM 20 MR. POHL: Thank you, your Honor.

21 Q. All right. You introduced Pelon to Gordo, correct?

22 A. Yes.

23 Q. And there were times when Pelon went to buy drugs,
24 correct?

25 A. Yes.

1 Q. Sometimes from Gordo?

2 A. Yes.

3 Q. Sometimes from other people?

4 A. Yes.

5 Q. Were there times when you went with Pelon to buy drugs?

6 A. Yes.

7 Q. Okay. Why did you go with Pelon on those drug purchases?

8 A. Because I went with Pelon because Pelon had the money, so
9 I would go to protect him so that he wouldn't get robbed. And
10 just to go with him to protect him, he would pay me.

11 Q. So, I want to make sure I understand how that worked.

12 Pelon would go buy drugs?

13 A. Yes.

14 Q. You went with him?

15 A. Yes.

16 Q. To meet with the drug dealer?

17 A. Yes.

18 Q. And were you present for those meetings?

19 A. Always.

20 Q. Okay. Pelon bought the drugs?

21 A. Yes.

22 Q. Pelon paid the drug dealer the money for the drugs?

23 A. Yes.

24 Q. Okay. And then Pelon paid you?

25 A. Yes.

1 Q. So about how much would you make for going to protect
2 Pelon during these drug buys?

3 A. \$100.

4 Q. How many times did you do that?

5 A. Six or seven times.

6 Q. After you had done that six or seven times, did you have
7 an opportunity -- well, did you and Pelon discuss protecting a
8 drug shipment, protecting a drug shipment?

9 A. Yes.

10:52AM 10 Q. All right. What can you tell the jury about that?

11 MR. NORKUNAS: Objection, Judge. Open-ended question.

12 THE COURT: I'll allow it.

13 MR. POHL: I can ask a better question, Judge. That's
14 fine, thank you.

15 Q. Mr. Hernandez Miguel, were there times in 2014 where you
16 met with Pelon and traveled from Massachusetts to
17 New Hampshire?

18 A. Yes.

19 Q. Okay. And when you met with Pelon to go from
10:53AM 20 Massachusetts to New Hampshire, what did you do?

21 A. We used to meet to plan how much he was going to pay, what
22 was the amount of drugs going, and how many people we needed to
23 go there.

24 Q. Okay. And on these trips to New Hampshire from
25 Massachusetts, did you and Pelon go by yourself?

1 A. No.

2 Q. Who went with you?

3 A. The first time Checha went.

4 Q. All right. So Mr. Hernandez Miguel, before I ask you
5 anything else, I'm going to show you --

6 MR. POHL: Can I have the document camera for the
7 witness, just for the witness. Thank you.

10:54AM 8 Q. All right. So, Mr. Hernandez Miguel, I'm going to put up
9 a series of disks and ask you if you recognize them. But
10 before I do, I want to ask you how -- when do you remember
11 meeting -- approximately the year that you met Casper for the
12 first time?

13 A. The first time was around 2004.

14 Q. Okay. And you came to Boston to stay around 2007?

15 A. Yes.

16 Q. At least before you were deported?

17 A. Yes.

18 Q. All right. So beginning in 2007, I know there's a
19 two-year period where you were back in El Salvador, but from
10:55AM 20 2007 until the time you were arrested in this case, how many
21 times have you spoken to Casper?

22 A. Thousands of times for hours, days, weeks.

23 Q. You've talked to him in person?

24 A. Yes.

25 Q. You've spoken to him on the phone?

1 A. Yes.

2 Q. Okay. Have you spoken to him in clique meetings?

3 A. Yes.

4 Q. Has he spoken to you in clique meetings?

5 A. Yes.

6 Q. Have you been to his -- have you been in his car?

7 A. Yes.

8 Q. Are you familiar with his voice?

9 A. 100 percent.

10:56AM 10 Q. What about Playa? So, let's start in 2007. And, again, I
11 know there's this two-year gap when you were back in
12 El Salvador, but how many times have you spoken to Playa?

13 A. Many times.

14 Q. Have you met with Playa?

15 A. Yes.

16 Q. Has he spoken at clique meetings?

17 A. Yes.

18 Q. Have you spoken to him on the phone?

19 A. Yes.

20 10:57AM Q. And had you spoken to him up to the time when you were
21 arrested in this case?

22 A. Yes.

23 Q. Okay. What about Checha? Again, in 2007, have you spoken
24 to Checha?

25 A. I met Checha around 2008.

1 Q. Okay. And how often have you spoken to Checha?

2 A. Oh, every week or during weeks and also we used to go and
3 hang out together.

4 Q. So, you spent time with him?

5 A. Yes.

6 Q. You've talked to him?

7 A. Yes.

8 Q. In person?

9 A. Yes.

10:58AM 10 Q. And on the phone?

11 A. Yes.

12 Q. And are you familiar with his voice?

13 A. Yes.

14 Q. Okay. Now, Lobo you met when you came back to the
15 United States, correct, after you came back to the
16 United States?

17 A. Yes.

18 Q. And, in fact, you met him after he had been jumped into
19 the clique?

10:58AM 20 A. Yes.

21 Q. Okay. So you've known him a shorter amount of time than
22 the other three; than Casper, Playa, and Checha?

23 A. Yes.

24 Q. How much time have you spent -- have you talked to Lobo?

25 A. Yes.

1 Q. Okay. How often have you spoken to Lobo?

2 A. I used to call him like every week or sometimes if you
3 need a favor, you call every two days. One is always obliged
4 to be checking in with the dudes.

5 Q. So, again, you have spoken to Lobo?

6 A. Yes.

7 Q. You've met with Lobo?

8 A. Yes.

9 Q. In person?

10:59AM 10 A. Yes.

11 Q. And you've spoken to him on the phone?

12 A. Yes.

13 Q. Many times?

14 A. Yes.

15 Q. You're familiar with his voice?

16 A. Yes.

17 Q. All right. So, Mr. Hernandez Miguel, after you were
18 arrested in this case, you were asked to listen to some
19 recordings, correct?

11:00AM 20 A. Yes.

21 Q. Okay. So I want to ask you about that. Where would you
22 listen to the recordings?

23 A. Here.

24 Q. Okay. In a room here in this building?

25 A. Yes.

1 Q. Okay. And who was there with you when you were listening
2 to the recordings?

3 A. With Deborah and two agents from the FBI always and
4 sometimes the prosecutor and sometimes Ms. Kelly as well.

5 Q. All right. Was there anything else in the room that you
6 used to listen to the recordings?

7 A. I don't understand the question.

8 Q. Was there a laptop computer in the room?

9 A. Yes.

11:01AM 10 Q. Okay. And would you listen to the recordings through the
11 laptop?

12 A. Yes.

13 Q. And were some of the recordings just voices?

14 A. Yes.

15 Q. Were some of the recordings video recordings?

16 A. Yes.

17 Q. Okay. Have you done that, listened to those recordings
18 over many days?

19 A. Yes.

11:02AM 20 Q. Okay. And as you were listening to the recordings, would
21 you be asked -- were you asked to do anything?

22 A. Every time I listened to the recordings, I didn't always
23 understand everything, so I listened many times to the
24 recordings.

25 Q. Okay. And was one of the things that you were listening

1 for to try to identify who the speakers were?

2 A. Yes.

3 Q. Okay. And was that something you did with Deborah, with
4 Ms. Huacuja?

5 A. Yes.

6 Q. She would ask you who was speaking?

7 A. Yes.

8 Q. If you recognized the voice, would you answer?

9 A. Yes.

11:03AM 10 Q. And what would you answer?

11 A. The name of the person who was speaking.

12 Q. When you were -- when you had listened to a recording and
13 you had done that process, asked who was speaking and you
14 answered, did you do anything to the disk of the recording?

15 A. Yes.

16 Q. What was that?

17 A. I put my initials.

18 Q. Okay. All right. I'm going to put up for the witness
19 what's been premarked as Exhibit 200. This is a recording from
11:04AM 20 January 25, 2014. Do you see that disk, Mr. Hernandez Miguel?

21 A. Yes.

22 Q. And did you listen to that disk?

23 A. Yes.

24 Q. How do you know you listened to the disk?

25 A. It has my initials on it.

1 Q. Okay. And when you listened to the disk, did you do the
2 process that we just discussed?

3 A. Yes.

4 MR. POHL: Your Honor, Disk 200 goes with transcript
5 Exhibit Number 20 and I'd move in Exhibit 20.

6 THE COURT: Exhibit 20?

7 MR. POHL: Yes.

8 THE COURT: That's the English transcript?

9 MR. POHL: Correct.

11:04AM 10 MR. IOVINO: Objection for the record, your Honor.

11 THE COURT: All right. Overruled. It's admitted.

12 (Exhibit No. 20 received into evidence.)

13 Q. Mr. Hernandez Miguel, I'm going to put up what's been
14 marked as Exhibit Number 201. Do you see that?

15 A. Yes.

16 Q. Okay. Did you review that disk?

17 A. Yes.

18 Q. How do you know?

19 A. It has my initials on it.

11:05AM 20 Q. Okay. And that is a recording from February 16, 2014.
21 You did the same process we discussed earlier, you did that on
22 this tape?

23 A. Yes.

24 Q. Identified the speakers?

25 A. Yes.

1 MR. POHL: Your Honor, the corresponding English
2 transcript to Exhibit Number 201 is Exhibit Number 119. I'd
3 move that into evidence.

4 MR. IOVINO: Objection.

5 THE COURT: All right. Overruled. It's admitted,
6 119.

7 (Exhibit No. 119 received into evidence.)

8 Q. Mr. Hernandez Miguel, I'm going to put up Exhibit 203,
9 which is a disk of a recording from February 8, 2015. Do you
10 recognize that disk?

11 A. Yes.

12 Q. Did you listen to that recording?

13 A. Yes.

14 Q. How do you know?

15 A. It has my initials on it.

16 MR. POHL: Your Honor, the corresponding transcript to
17 Disk 203 is Exhibit Number 23, and I'd move that into evidence.

18 MR. IOVINO: Objection.

19 THE COURT: Overruled. It's admitted, 23.

11:06AM 20 (Exhibit No. 23 received into evidence.)

21 Q. Mr. Hernandez Miguel, I'm putting up Disk Number 204,
22 which is a disk of a recording from March 29, 2015. Did you
23 review that disk?

24 A. Yes.

25 Q. How do you know?

1 A. It has my initials on it.

2 Q. Thank you.

3 MR. POHL: Your Honor, the corresponding English
4 transcript to Disk Number 204 is Exhibit Number 24, and I'd
5 move that into evidence.

6 MR. IOVINO: Objection.

7 THE COURT: It's admitted. Overruled.

8 (Exhibit No. 24 received into evidence.)

9 THE COURT: I'll give you a standing objection to
11:07AM 10 these transcripts.

11 MR. IOVINO: Thank you, your Honor.

12 Q. Mr. Hernandez Miguel, I'm putting up Exhibit Number 205.
13 Do you recognize that?

14 A. Yes.

15 Q. Did you review that recording during your -- prior to your
16 testimony here today?

17 A. Yes.

18 Q. Okay. That's of a recording that took place on August 31,
19 2015?

11:07AM 20 A. Yes.

21 MR. POHL: Your Honor, the corresponding English
22 transcript to Disk Number 205 is Exhibit Number 27, and I'd
23 move that in.

24 THE COURT: It's admitted, 27.

25 (Exhibit No. 27 received into evidence.)

1 Q. Mr. Hernandez Miguel, I am showing you Disk Number 207,
2 which is a recording from January 8, 2016. Did you review that
3 recording before your testimony here today?

4 A. Yes.

5 Q. How do you know?

6 A. It has my initials on it.

7 Q. Okay.

8 MR. POHL: The English transcripts for Disk
9 Number 207, your Honor, are both Exhibit Number 31 and then an
11:08AM 10 excerpt at Exhibit Number 122. I'd move both of those into
11 evidence.

12 THE COURT: They're admitted, 31 and 122.

13 (Exhibit Nos. 31 and 122 received into evidence.)

14 Q. Okay. Mr. Hernandez Miguel, when you were reviewing the
15 recordings, am I correct that on many of the recordings, you
16 were present for the meetings that were recorded?

17 A. Yes.

18 Q. Or the conversations that were recorded?

19 THE INTERPRETER: I'm sorry.

11:09AM 20 Q. Or the conversations that were recorded?

21 A. Yes.

22 Q. All right. Were you asked sometimes to listen to voices
23 of recordings where you were not physically present for the
24 meeting or the conversation?

25 A. Yes.

1 Q. Okay. I'm going to put up a disk that's been marked 208.

2 Okay. And -- how is that, is that better?

3 A. Yes.

4 Q. Okay. All right. This is a disk of December 14, 2014.

5 Do you recognize that disk?

6 A. Yes.

7 Q. Okay. Now there's some writing -- actually you may not be
8 able to see all of that if I don't pull that out of the sleeve.

9 How is that? Better?

11:10AM 10 A. Yes.

11 Q. So there's some writing on that disk?

12 A. Yes.

13 Q. Okay. And who wrote that on the disk?

14 A. I did.

15 Q. And what did you write?

16 A. "Crazy and Danger".

17 Q. And why did you write "Crazy and Danger"?

18 A. Because they're the ones speaking here.

19 Q. Okay. Well, let me start by this. Who's Danger?

11:11AM 20 A. My brother.

21 Q. Is your brother also an MS-13 gang member?

22 A. Yes.

23 Q. Is he in the same clique as you?

24 A. No.

25 Q. What clique is he in?

1 A. The Everetts.

2 Q. Okay. Who is Crazy?

3 A. He's from the Everetts.

4 Q. All right. I'm going to put up what's been marked as
5 Exhibit Number 209. Is that a disk that you listened to before
6 your testimony here today?

7 A. Yes.

8 Q. Okay. How do you know that?

9 A. It has my initials on it.

11:12AM 10 Q. Okay. And did you identify the speakers on that
11 conversation?

12 A. Yes.

13 Q. All right.

14 MR. POHL: Your Honor, the English transcript that
15 goes with Exhibit 209 is Exhibit Number 44 and I'd move that
16 into evidence.

17 THE COURT: All right. It's admitted, 44.

18 (Exhibit No. 44 received into evidence.)

19 THE COURT: Just for the record, during Ms. Huacuja's
11:13AM 20 testimony, it was 44.1 through 44.4. I assume it's the same?

21 MR. POHL: It is, your Honor. Thank you.

22 THE COURT: Okay. Go ahead.

23 Q. Exhibit Number 210. This is a disk of a recording from
24 January 21, 2014. Did you listen to that before your testimony
25 here today?

1 A. Yes.

2 Q. Okay. How do you know?

3 A. It has my initials.

4 MR. POHL: Your Honor, I'd move the English transcript
5 for Disk 210, which is Exhibit 55 into evidence.

6 THE COURT: It's admitted, 55.

7 (Exhibit No. 55 received into evidence.)

8 Q. I'm going to put up 211. Do you recognize that?

9 A. Yes.

11:14AM 10 Q. How do you recognize it?

11 A. It has my initials on it.

12 Q. Okay. And that's one of the disks that you listened to
13 before your testimony here today?

14 A. Yes.

15 Q. Okay. Is there anything else that you wrote on that disk?

16 A. Yes.

17 Q. What did you write on that disk?

18 A. "Checha".

19 Q. Why did you write "Checha" on the disk?

11:14AM 20 A. Because I identified his voice there.

21 MR. POHL: Your Honor, that is Exhibit Number 56.1
22 through 3, and I'd move that into evidence.

23 THE COURT: All right. It's admitted, 56.1 through
24 56.3.

25 (Exhibit No. 56.1 through 56.3 received into

1 evidence.)

2 Q. Mr. Hernandez Miguel, I'm showing you Exhibit Number 212.

3 Do you recognize that?

4 A. Yes.

5 Q. Is that one of the disks that you reviewed before your
6 testimony?

7 A. Yes.

8 Q. Okay. And how do you know that?

9 A. I wrote my initials on it.

11:15AM 10 Q. Okay. Did you write anything else on the disk?

11 A. Yes.

12 Q. Okay. What else did you write on the disk?

13 A. "Calls with Lobo."

14 Q. Okay.

15 MR. POHL: Your Honor, the corresponding transcript to
16 this is Exhibit Number 62.1 through .4 and I'd move that into
17 evidence.

18 THE COURT: It's admitted, 62.1 through 62.4.

19 (Exhibit No. 62.1 through 62.4 received into
11:16AM 20 evidence.)

21 MR. POHL: Your Honor, I know we're getting close to
22 the break. I think I have one more, and then it would be a
23 good time to break, if that's acceptable to you.

24 THE COURT: All right.

25 Q. All right. Mr. Hernandez Miguel, I'm showing you what's

1 been marked as Exhibit Number 214. Do you recognize that?

2 A. Yes.

3 Q. Did you review that before your testimony here today?

4 A. Yes.

5 Q. How do you know?

6 A. It has my initials on it.

7 Q. Okay.

8 MR. POHL: Your Honor, that's Exhibit Number 63 and
9 I'd move that in. Excuse me, 73.

11:16AM 10 THE COURT: 73, 73 is admitted. That's the
11 transcript?

12 MR. POHL: Correct.

13 THE COURT: So we'll take a break.

14 THE CLERK: All rise.

15 (JURORS EXITED THE COURTROOM.)

16 (A recess was taken.)

17 THE CLERK: All rise.

18 THE COURT: Please be seated. You wanted to preserve
19 something, Mr. Norkunas?

11:35AM 20 MR. NORKUNAS: Yes, Judge. Thank you for giving me
21 that opportunity. I had filed a pretrial motion challenging
22 the telephone calls, and in relation to the February 14th,
23 which just came in, Exhibit 56.1 through 3, and I'd again renew
24 my objection at this point in time to the admission of those,
25 Judge.

1 THE COURT: Okay. And that's overruled.

2 MR. NORKUNAS: Thank you.

3 THE COURT: All right. Lisa is lining up the jury, so
4 we'll bring them in as soon as they're ready.

5 Actually, there was the motion filed by Guzman
6 concerning testimony on charge X. Are we going to get to that
7 today? I've read it. Give me a heads-up if we're going to get
8 to them so I can rule on that motion before --

9 11:35AM 10 MR. LOPEZ: I think that's with the other cooperating
witness.

11 THE COURT: Oh, excuse me. I'm sorry.

12 THE CLERK: All rise for the jury.

13 (JURORS ENTERED THE COURTROOM.)

14 MR. POHL: Can we approach sidebar briefly?

15 THE COURT: Yes.

16 (SIDEBAR CONFERENCE WAS HELD AS FOLLOWS:)

17 11:37AM 20 MR. POHL: Thank you. I just wanted to flag the way
that I expect between now and the end of today, I'm going to be
18 reading some of the transcripts that have been admitted, and
19 we've thought of a variety of ways of doing it. Obviously,
20 Mr. Hernandez Miguel can't participate in the reading, so I'll
21 be reading the portions myself and probably stopping along the
22 way to ask him questions at various points. I just -- if there
23 was going to be an objection or some sort of --

24 THE COURT: You'll be reading all participants?

1 MR. POHL: I think I'm reading all participants. Yes.
2 I thought about having other people read the transcripts, it
3 just was too cumbersome.

4 THE COURT: Okay. That's fine, and just --

5 MR. MURPHY: Okay. Are we going to swear Mr. Pohl in?

6 THE COURT: I hope he reads it carefully. Usually
7 people get bored and get sloppy.

8 MR. POHL: That was it. Thank you.

9 (SIDEBAR CONFERENCE WAS CONCLUDED)

11:41AM 10 THE CLERK: Thank you. You may be seated. Court is
11 now back in session.

12 THE COURT: Mr. Pohl.

13 MR. POHL: Thank you very much, your Honor.

14 Q. Mr. Hernandez Miguel, when we left off, we were talking
15 about the first time that you and Pelon went from Massachusetts
16 to New Hampshire. And do you remember why you drove with Pelon
17 from Massachusetts to New Hampshire?

18 A. Yes.

19 Q. Why was that?

11:41AM 20 A. Protecting a kilo of cocaine.

21 Q. And who did you do that with?

22 A. It was me, Pelon and Checha.

23 Q. Okay. Did you, Pelon and Checha talk about the plan to
24 protect the drugs before you drove from Massachusetts to
25 New Hampshire?

1 A. Yes.

2 MR. POHL: Your Honor, at this time I'd ask the ladies
3 and gentlemen of the jury to pull out their transcript binders.

4 THE COURT: All right.

5 MR. POHL: Can I approach the witness stand? And
6 could you turn to tab 55, please.

7 THE INTERPRETER: Could you repeat that, please?

8 MR. POHL: 55.

9 THE COURT: Ladies and gentlemen, let me explain what
11:43AM 10 I think is going to happen here. We have English language
11 transcripts which I have admitted as evidence in the case. To
12 present them to you, I think Mr. Pohl is going to read them or
13 read portions of them. Just to remind you, that's a way of
14 presenting it to you. It's not his words, but the actual words
15 on the transcript that are the evidence. If he garbled
16 something or misses a word or inserts the word, it's obviously
17 the transcript that controls, and there's no ideal way to do
18 this because, of course, it was originally in Spanish.

19 MR. POHL: Thank you very much, your Honor.

11:43AM 20 Q. So, Mr. Hernandez Miguel, I'm just going to read one or
21 two of the sentences that begin the transcript and see if you
22 remember this. So this is from a meeting on January 21, 2014.

23 And CW-1 says "Checha."

24 Checha says, "What's up?"

25 CW-1 says, "We have some business more or less over

1 there. Maybe you would like to help. I'm looking for a driver
2 to just follow me in a car. I don't know New Hampshire."

3 Okay. So let me just stop right there before I read
4 any further. Do you remember this conversation?

5 A. Yes.

6 Q. And do you remember where you were when you had that
7 conversation?

8 A. Yes.

9 Q. Where were you?

11:44AM 10 A. We were in Pelon's car.

11 Q. Okay. So, who's in the car?

12 A. Myself, Pelon, and Checha.

13 Q. Okay. So now I'll continue reading.

14 Checha: "It's in New Hampshire?"

15 CW-1: "Uh-huh, I'm going to bring a doll, a kilo."

16 Checha: "Only one?"

17 CW-1: "Uh-huh, so..."

18 Checha: "We need two cars?"

19 CW-1: "Yes, because me and Muerto will go here in my
11:45AM 20 car and you will be tailing me behind. There's no problem with
21 the front, but it's the back that I need a tail, so that in
22 case the cops turn their lights on us, what you can do is burn
23 some rubber or move away from them."

24 Checha: "Right, do something stupid."

25 CW-1: "Pull over to the curb."

1 Checha: "So that they would stop me."

2 CW-1: "Uh-huh, so then I could get away, you know,
3 and to go there, \$500, you know. Do you think that --"

4 Checha: "No, man. I won't do anything for \$500. In
5 fact, I'm going to Texas soon."

6 CW-1: "No kidding."

7 Checha: "Yes, I leave on Friday."

8 CW-1: "Fuck, \$1,500 just to take it over there."

9 Checha: "\$1,500 is very cheap. How much time do you
11:46AM 10 think you would get if --"

11 CW-1: "Oh, for a gram I would get 20 years."

12 Checha: "Precisely."

13 CW-1: "But..."

14 Checha: "\$1,500 is very little, dude."

15 And what are you going to move it from -- "and where
16 are you going to move it from?"

17 CW-1: "From here."

18 Checha: "From Chelsea to there?"

19 CW-1: "Yes."

11:46AM 20 Checha, to which town are you taking it there? "To
21 which town, there, are you taking it?"

22 CW-1: "Right to New Hampshire."

23 Checha: "Yes, but where?"

24 CW-1: "I don't know. He's going to give me the
25 address."

1 Checha: "Watch out, it's hot there. I'm working
2 there right now, but maybe it would be possible right now
3 because of the snow."

4 CW-1: "But it's going to be next week. No, man, no,
5 no, no. It's not that big a deal, I feel like going by myself,
6 but the thing is that I want someone to follow behind me."

7 Checha: "Right, a tail."

8 CW-1: "Uh-huh, just to follow behind. Whoever
9 follows behind wouldn't -- fuck, I'm the one that would. Me
11:47AM 10 and this dude would bear the weight here because we would be
11 taking the monster in here."

12 Checha: "Yes."

13 CW-1: "Whoever drives, if you want, could follow me
14 from afar."

15 Checha: "The thing is that the guy behind you also
16 has to be careful."

17 CW-1: "The only thing I want is someone behind me to
18 watch me back, the plate, you know, so that it won't --"

19 Checha: "Yes, yes."

11:47AM 20 CW-1: "So that, you know, but I don't think that
21 person would have a problem, because, you know, how would they
22 know that the one in front has the shit and the one behind, I
23 have always done it that way. Whenever I move something, I
24 take it there while someone, you know."

25 Checha: "Someone else behind you, tailing you."

1 CW-1: "Yes because when it's got a weight, when it's
2 a big load like 30 or 40 kilos, then three of us go."

3 Checha: "Yes."

4 CW-1: "Out in front, (unintelligible) the truck and
5 the next right behind me and the other one up ahead calling in
6 case there's a cop quickly."

7 Checha: "Exactly."

8 CW-1: "If there's a roadblock --"

9 Checha: "That's what I was going to suggest about
11:48AM 10 sending someone ahead, that's what we used to do."

11 CW-1: "No, this isn't a big deal. Right now, this is
12 nothing. I had just asked them to help me out because I don't
13 have --"

14 Checha: "You don't have something."

15 CW-1: "I don't have money. Money is what I don't
16 have so they said go, we'll give you a break."

17 Checha: "Are they going to call you?"

18 CW-1: "Yes. They're going to let me know because
19 when it arrives they're going to give me one."

11:49AM 20 Checha: "Oh."

21 CW-1: "Uh-huh, I already had everything planned there
22 in New Hampshire. I get there, deliver it to one guy, I am
23 given the money and we return. They work out their stuff on
24 their own. We make the delivery in a parking lot wherever, you
25 know, quickly bring it over and turn around."

1 Checha: "In what are you taking it?"

2 CW-1: "Oh, stuck right here in my belly, or I'll
3 throw it here in this shit. That's no biggy."

4 Checha: "Hey, I have a kilo stuck right here in my
5 belly."

6 CW-1: "No, don't worry about that because I can put
7 that shit under the seat here or next to me. Any old place
8 here if I get stopped. When one gets stopped you already know
9 you'll be arrested. Wherever you have it, they will break the
11:49AM 10 car, the thing is --"

11 Checha: "Don't get nervous."

12 CW-1: "No, never."

13 Checha: "There have been times I have managed to pass
14 through."

15 CW-1: "No, man. I have even passed through with a
16 gun sometimes."

17 Checha: "Precisely. No, this dude knows. I do it on
18 the fly, look to drive, too. I also know the streets there,
19 dude. I would tell you to get the address from where we're
11:50AM 20 going."

21 CW-1: "All right."

22 Checha: "So that we go the right way."

23 CW-1: "You think so? That's not a problem. I
24 realize I'm not familiar and this guy says it's hot, but it's
25 hotter from Texas to here and they get in."

1 Checha: "Well, haven't I done that already?"

2 CW-1: "Precisely."

3 Checha: "Precisely, but you also don't do it unless
4 you're making good money."

5 CW-1: "No, fuck, but they're paying \$1,000 man, per
6 kilo from Houston to here."

7 Checha: "But think 5 kilos."

8 CW-1: "5,000, but --"

9 Checha: "Who's going to give you \$5,000 around here?"

11:51AM 10 CW-1: "Exactly and they're giving me \$1,500 because I
11 told them there were three of us, so we're going to make \$1,500
12 just to move one kilo inside here. You know perfectly well
13 they pay \$1000 because I also used to do stuff from Houston to
14 Atlanta and North Carolina per kilo. If I were moving more
15 than 5 kilos here, I would get \$1,000 for each kilo, same shit
16 and they're now telling me they will give me more."

17 Checha: "So this kilo is just to start?"

18 CW-1: "Yes. This is to see if I really -- because I
19 told them look I don't have work right now. So they said,
11:51AM 20 okay, we'll see what happens down there, and we'll let you know
21 what's going on there, and we'll send you one so that you'll
22 take it over there, and you'll earn \$1,000, \$1500 there, so
23 that you can at least pay the rent. Fine, no problem, I
24 wouldn't say no."

25 Checha: "Exactly."

1 CW-1: "When there's no work. So I said yes --"

2 And then I told -- it says, "and they I told Muerto
3 hey, dude because I don't trust other people."

4 Checha: "No, exactly, dude."

5 CW-1: "But I was going to ask the guy with the BMW,
6 but no."

7 Muerto: "Oh, yes, because they don't know what's up.
8 Those boys are scared."

9 CW-1: "Well, I won't say they're scared because I
11:52AM 10 can't even tell them what I'm taking. I can't say, look,
11 follow me there."

12 Checha: "Right. Well, tell you're going to there to
13 sell the car."

14 CW-1: "It's better to take someone who knows."

15 Checha: "Yes, so the escort detail is from only here
16 to there?"

17 CW-1: "Yes, there from there, what the fuck, you can
18 stay around there if you want."

19 Checha: Yes, that's what I'm saying. I'll stay
11:52AM 20 there."

21 CW-1: "All right. That's just for us. I don't know
22 how the fuck to get back here."

23 Muerto: "That's easy, from there to here."

24 Checha: "It's fast from there."

25 Muerto: "The same road brings you back here."

1 CW-1: "Uh-huh, it's the same street."

2 Checha: "Get the address."

3 CW-1: "So will you do us the favor?"

4 Checha: "Exactly to follow behind you like that,
5 yes."

6 All right. It goes on, but I think we can stop there.

7 Mr. Hernandez Miguel, after that conversation -- well, where
8 you talked about protecting a kilogram of cocaine from
9 Massachusetts to New Hampshire, did you do that?

11:53AM 10 A. Yes.

11 Q. Okay. How did you do it?

12 A. I was with Pelon in the car and Checha was behind us.

13 Q. And do you remember where you met?

14 A. Outside of my house. I lived in Chelsea on Central
15 Avenue, and we had agreed to meet there at a certain time.

16 Q. And did you do that?

17 A. Well, we were waiting for Checha and Checha supposedly was
18 with a friend, and we told him that if he was going, he had to
19 go by himself, not with anyone else. And he said, okay, I'll
11:54AM 20 drop him off at his house, and I'll follow you.

21 Q. And did Checha meet up with you and Pelon?

22 A. Yes.

23 Q. Where did you go? Where did you go next?

24 A. After we met up, we went to Saugus.

25 Q. Okay.

1 A. In Saugus, we were given the kilo of cocaine.

2 Q. So how did that happen? Tell me about that.

3 A. We went to Saugus, and someone was waiting for us there in
4 a truck, so he got out of the truck and he got into the car. I
5 was in with Pelon, and he gave us the kilo of cocaine there.

6 Q. Okay. After you got the kilo of cocaine, what did you and
7 Pelon do?

8 A. We headed for New Hampshire.

9 MR. POHL: Could I ask you to turn to 56 and
11:56AM 10 specifically there's three calls. We're looking at 56.1 here.

11 Q. Mr. Hernandez Miguel, you just described a telephone call
12 that Pelon had with Checha, correct, and that you had with
13 Checha?

14 THE INTERPRETER: I'm sorry, could you repeat the
15 question?

16 Q. Sure. You just described a call that you had with Pelon
17 and Checha before you picked up the kilo, correct?

18 A. Yes.

19 Q. Okay. So I'll read 56.1.

11:56AM 20 Checha: "What's up?"

21 CW-1: "What's up? I'm here and ready. Where are
22 you?"

23 Checha: "Here in the parking lot."

24 CW-1: "No, man, I'm here at the parking lot at Muerto
25 's house. That's what we agreed upon."

1 Checha: "Oh, I came here to change cars, dude."

2 CW-1: "What happened to yours?"

3 Checha: "He said he didn't like it."

4 CW-1: "No, man, why did you go rent one? Fuck, just
5 come over here. I'm here. The thing is already there."

6 Checha: "Come here by --"

7 CW-1: "No, man, dude, we agreed to meet here."

8 Checha: "All right then."

9 CW-1: "All right."

11:57AM 10 Checha: "I'll be there in two minutes."

11 So, all right. Then Checha came by, correct, then
12 Checha came to meet you, correct?

13 A. Yes.

14 Q. Then you drove to Saugus?

15 A. Yes.

16 Q. And you got the kilo?

17 A. Yes.

18 Q. Okay. Once you and Pelon got the kilo, where did you go?

19 A. We went towards New Hampshire.

11:58AM 20 Q. Where was -- did you see where Checha was?

21 A. He was behind us.

22 Q. Okay. In his own car?

23 A. In his car.

24 Q. All right. Where did you go?

25 A. We got to the entrance to New Hampshire and we got off

1 like at a hotel at the parking lot there and there we delivered
2 the kilo of cocaine.

3 Q. When you got there, what happened?

4 A. We got there, someone was waiting for us there. We handed
5 over the kilo of cocaine, and they gave us the money.

6 Q. Where was Checha when that happened?

7 A. He parked across the street.

8 Q. Where across the street?

9 A. Pelon and I had planned to drive into the parking lot
11:59AM 10 where the dude that had the cocaine was, and at the hotel
entrance there was a different way, which led to some offices,
11 and there was a parking lot there. That's where he parked.
12

13 Q. Okay. All right. After you -- what did you and Pelon do
14 with the kilogram of cocaine once you got to New Hampshire?

15 A. I took it and I put it where my feet were.

16 Q. And when it was time to drop it off, what did you do?

17 A. Pelon told me to grab it and to put it behind because the
18 guy who picked up the cocaine got into the car in the back
19 seat, so I grabbed the cocaine and moved it back slowly so that
12:00PM 20 the guy that came into the car grabbed it.

21 Q. And then he gave you the money?

22 A. Yes.

23 Q. Okay. When you got the money, did you drive back from
24 New Hampshire to Massachusetts?

25 A. Yes.

1 Q. Okay. Do you remember whether anything happened on the
2 ride back with Checha?

3 A. Yes.

4 Q. What was that?

5 A. When we left and got on the highway, the person that
6 received the cocaine went to the left, we went to the right and
7 supposedly the guy that had received the cocaine called saying
8 that Checha was following behind him and what we were up to,
9 had we planned on taking the cocaine back or what? So we
12:02PM 10 called Checha and asked him what he was doing, and he said I
11 was just protecting him until he got on the highway to check
12 and make sure there were no cops behind him.

13 Q. Well, was there a time during this deal that Checha
14 thought he saw a police officer?

15 A. Yes.

16 MR. POHL: All right. Jurors, 56.3, please.

17 Q. All right.

18 CW-1: "What's up, what's up? Checha, Checha. What's
19 going on?"

12:03PM 20 Checha: "There goes the truck and the
21 (unintelligible) again along Central Street, man."

22 CW-1: "Don't fuck with me, where is the truck?"

23 Checha: "It's on Central Street right now, I'm
24 telling you. I just saw it as I was coming down. It's on
25 Central Street right now, dude."

1 CW-1: "Well, I'm here already on Central Street,
2 dude."

3 Checha: "Well, there goes the son of a bitch right
4 now. Right here at the light by the car wash. It went up that
5 way right now the son of a bitch. Watch out for it."

6 CW-1: "Don't fuck with me, here by the car wash?"

7 Checha: "No, on Central Street, Central. It's going
8 up the, truck."

9 CW-1: "Oh, on Central?"

12:03PM 10 Checha: "It's on Central, look for it."

11 CW-1: "Check the plate or something. Tell me what
12 you see."

13 Checha: "The whore doesn't have a front plate."

14 CW-1: "It has no plate, all right."

15 MR. POHL: Can I have this for the witness.

16 Q. Two pictures I'm showing you, Mr. Hernandez Miguel. Do
17 you recognize those?

18 A. Yes.

19 Q. What are we looking at there?

12:04PM 20 A. This was the money we were paid for bringing the kilo of
21 cocaine to New Hampshire.

22 Q. In the first picture, what were you holding?

23 A. That was the kilo of cocaine.

24 Q. And is that the kilo of cocaine and the money you got from
25 the deal that you did with Pelon and Checha?

1 A. Yes.

2 MR. POHL: I'd offer 57.1 and 2, your Honor.

3 THE COURT: All right. They're admitted, 57.1 and 2.

4 (Exhibit No. 57.1 and 57.2 received into evidence.)

5 Q. 57.1, what is that, Mr. Hernandez Miguel?

6 THE INTERPRETER: I'm sorry. Could you --

7 Q. What are we looking at, Mr. Hernandez Miguel?

8 A. That's the kilo of cocaine.

9 Q. All right. And 57.2.

12:05PM 10 A. That's the money we were paid for bringing the cocaine to
11 New Hampshire.

12 Q. Okay. Do you know if Checha got paid?

13 A. We were each going to get 500. He was paid.

14 Q. Okay. Did you get \$500?

15 A. Yes.

16 Q. Did you do another run from Massachusetts to New Hampshire
17 with Pelon in 2014?

18 A. Yes.

19 Q. Okay. Do you know how many times you did that with Pelon?

12:06PM 20 A. Two times, I believe, to New Hampshire.

21 Q. Okay. When is the next time you remember doing it with
22 Pelon?

23 A. That was in 2014.

24 Q. Okay. And who went with you that time?

25 A. It was myself, Pelon, Lobo, Caballo, Crazy, and Danger.

1 Q. Okay.

2 MR. POHL: So I think before we go any further, for
3 the witness, could I have 13?

4 Q. Who is that, Mr. Hernandez Miguel?

5 A. Crazy.

6 Q. And how do you know Crazy?

7 A. Because he's in MS.

8 Q. Okay. Is he in your clique?

9 A. No.

12:07PM 10 MR. POHL: I'd move that into evidence, your Honor.

11 THE COURT: What number is it?

12 MR. POHL: 13.

13 THE COURT: All right. It's admitted.

14 (Exhibit No. 13 received into evidence.)

15 Q. What clique is Crazy in, Mr. Hernandez Miguel?

16 A. The Everetts.

17 Q. Is that the same clique as your brother?

18 A. Yes.

19 Q. All right. Who is that?

12:08PM 20 A. That's Danger.

21 Q. Okay. Who's Danger?

22 A. My brother.

23 Q. Is he also in MS-13?

24 A. Yes.

25 Q. What clique is he in?

1 A. Everetts.

2 MR. POHL: Can I go back to the witness just briefly?

3 THE COURT: Are you offering this?

4 MR. POHL: I'm sorry, Your Honor. I think this is
5 actually evidence from yesterday. I apologize. Yes.

6 THE COURT: Oh, it is.

7 MR. POHL: For the witness, 18.1.

8 Q. Do you recognize that?

9 A. Yes.

12:08PM 10 Q. Who is that?

11 A. Crazy.

12 Q. What's on his chest?

13 A. The MS.

14 MR. POHL: This is 18.2 and I'd offer it, Judge.

15 THE COURT: It's admitted, 18.2.

16 MR. POHL: Sorry, Judge. This is 18.1.

17 Q. Let me show you the second picture. Do you recognize
18 that, Mr. Hernandez Miguel?

19 A. Yes.

12:09PM 20 Q. What is that?

21 A. That's the Everett's clique, the ELS.

22 MR. POHL: I'd offer 18.2 as well. Thank you.

23 THE COURT: All right. 18.1 and 18.2 are admitted.

24 (Exhibit No. 18.1 and 18.2 received into evidence.)

25 Q. All right. So, when you did the next deal to protect

1 drugs, you did it with yourself, Pelon, and who else?

2 A. Lobo, Danger, Caballo, and Crazy.

3 MR. POHL: Can I have 11?

4 Q. Who is that?

5 THE CLERK: Exhibit 11?

6 MR. POHL: Yes, it is in.

7 A. Caballo.

8 Q. Okay. All right. What were you protecting?

9 A. Five kilos of cocaine.

12:10PM 10 Q. How did you know that you were protecting five kilos of
11 cocaine?

12 A. Because we always would meet in advance and talk about
13 what we were going to move.

14 Q. Okay. Did you do that in this instance?

15 A. Yes.

16 Q. Okay. Who did you meet with?

17 A. We met with Caballo, with Lobo, Crazy was told about it,
18 Danger, all of us.

19 MR. POHL: Jurors, can I ask you to turn to 62.1.

12:11PM 20 Q. 62.1 is a call on December 1, 2014. And do you recognize
21 the voice on this call as being from Lobo?

22 A. Yes.

23 Q. Okay.

24 CW-1: "What's up, man?"

25 Lobo: "What's going on?"

1 CW-1: "Not much. What are you doing?"

2 Lobo: "Still at work, man."

3 CW-1: "No shit."

4 Lobo: "I'll get out in an hour."

5 CW-1: "Oh, yeah? I'm just calling to see if you're
6 on for that thing or not."

7 Lobo: "When are you going?"

8 CW-1: "Monday."

9 Lobo: "Monday?"

12:12PM 10 CW-1: "Next Monday, not this one. So today is
11 Monday, but next week."

12 Lobo: "I can't this week, but if that's the case, it
13 gives me time to fix that thing that measures the speed of the
14 car because that shit is stuck."

15 CW-1: "Yes, man, but huh?"

16 Lobo: "At what time would we go?"

17 CW-1: "In the morning."

18 Lobo: "Oh, so I would have to take the day off then."

19 CW-1: "Huh?"

12:12PM 20 Lobo: "I would have to ask for the day off."

21 CW-1: "Exactly. If we're going to go, you'll have to
22 ask for the day off because I don't want you to let me down
23 because I am counting you. You know it will be \$500 for the
24 short while, you know."

25 Lobo: "Yes, yes, yes."

1 CW-1: "It's not that big a deal, but you do have to
2 ask for the day off because you can't tell them you're going to
3 go out with me for a little while and then you can't do it."

4 Lobo: "No, no, I'm saying we will go."

5 CW-1: "Yes."

6 Lobo: "If I say let's go, it's because we're going,
7 I'm just going to fix that thing with the needle in the truck
8 because that shit isn't work correctly, and I don't like that."

9 CW-1: "Otherwise, I have GPS that shows the speed."

12:13PM 10 Lobo: "Well, that's also awesome."

11 CW-1: "Yes. I'll give you the GPS if you don't have
12 time to get it fixed. We're just going to drive at the speed
13 limit, you know, and the GPS will show us what our speed is."

14 Lobo: "No problem, dude. I have to take it in any
15 way, the truck. I think I'll do it tomorrow, by Wednesday it
16 will be ready for the weekend."

17 CW-1: "All right."

18 Lobo: "But you can definitely count on me. Let's
19 go."

12:14PM 20 CW-1: "All right then. We'll talk later. See you
21 later. Okay, then."

22 Q. Okay. So let's jumped ahead to the day of the five kilo
23 protection. What happened that day?

24 A. I was going to drive a car, Caballo was going to drive
25 next to me, Lobo was going to drive a different car, and Danger

1 was going to go with Lobo. Pelon was going to drive another
2 car, and Crazy was going to go with him, and the drugs would be
3 in Pelon's car. I was going to drive in the front and Lobo in
4 the back and Pelon in the middle.

5 Q. And would Pelon call the people that had been agreed to do
6 the protection details before the meetings would take place?

7 A. Yes.

8 Q. Okay.

9 MR. POHL: 62.4.

12:15PM 10 Lobo: "What's up?"

11 CW-1: "What's up, man? Are you ready?"

12 Lobo: "I am, waiting for your call."

13 CW-1: "Well, I got the car, and I'm going now to pick
14 up Muerto. I'm also calling Crazy to get himself ready."

15 Lobo: "All right, I'm at Mariachi."

16 CW-1: "Oh, you're at Mariachi."

17 Lobo: "Yes."

18 CW-1: "All right, I'm on my way. Stay there because
19 it's cold outside."

12:16PM 20 Lobo: "Fine. I have the car anyway."

21 CW-1: "Great, I'll be there. I'll call you when I'm
22 outside for you to come out."

23 Lobo: "All right, man."

24 CW-1: "All right."

25 Q. What happened -- so how did you all -- where did you all

1 meet when you were getting ready to protect the drugs?

2 A. We met at the Burger King in Chelsea in front of Market
3 Basket at the parking lot there, and we met in the parking lot
4 of Bank of America -- or I don't know if it's Bank of America,
5 but it's a bank.

6 MR. POHL: Can I for the witness, Madam Clerk?

7 THE CLERK: Yes.

8 MR. POHL: 65.

9 Q. I'm going to show you a series of pictures, Mr. Hernandez
12:17PM 10 Miguel, just for yourself now. Can you tell me who these
11 people are?

12 A. That's Caballo.

13 Q. 2?

14 A. That's Lobo.

15 Q. 3? Can I go back to 2 for a second?

16 A. That's Lobo.

17 Q. 3.

18 A. That's Lobo.

19 Q. Okay. 4?

12:17PM 20 A. The one in the middle is Danger.

21 Q. And who's off to the side?

22 A. Up here it's me.

23 Q. Who's that?

24 A. Danger.

25 Q. Who is that?

1 A. Crazy.

2 Q. Who is that?

3 A. Lobo.

4 MR. POHL: Your Honor, I would move those photographs
5 into evidence.

6 THE COURT: I'm sorry, what are their numbers again?

7 MR. POHL: It is 65.1 through -- I'm sorry, 65.1
8 through .6 skipping 7 and then .8, so 1 through 6 and 8.

9 THE COURT: And that's the order in which they were
12:18PM 10 shown to the witness?

11 MR. POHL: Yes, your Honor.

12 THE COURT: All right. They're admitted.

13 (Exhibit Nos. 65.1 through 65.6 and 65.8 received into
14 evidence.)

15 Q. All right. So, Mr. Hernandez Miguel, just talk us through
16 what's happening here. Who's this in the front seat of the
17 car?

18 A. That's Caballo.

19 Q. Okay.

12:19PM 20 THE COURT: Can you identify by exhibit when you're
21 doing this, for the record?

22 MR. POHL: Yes, your Honor, thank you. This is 65.1.

23 Q. Where were you when Caballo was in the front seat
24 with -- well, who is in the car with Caballo now?

25 A. Right here, it's only Caballo in the car, but I will go

1 with him in the car because I'm the one that drove that car.

2 Q. And where did you end up meeting?

3 A. We met in Chelsea near Burger King.

4 Q. And who was in what car?

5 A. I was in Pelon's car. It was a white Honda. I was with
6 Caballo. Pelon was with Crazy. He was in a white Nissan
7 Ultima. In the other car, it was Lobo with Danger in the
8 Toyota Corolla.

9 Q. Okay. So which car was going to have the 5 kilograms of
12:20PM 10 cocaine?

11 A. In Pelon's car, the Nissan Ultima.

12 Q. And the person that was with Pelon at the time for the
13 protection was Crazy?

14 A. Yes.

15 Q. What was your job that day?

16 A. Our job was to protect the drugs because being members of
17 MS-13, who was going try to mess with MS-13, so that's why it
18 was only dudes from MS-13 there. So I was going in the front
19 so that no other car would attach itself to Pelon who was in
12:21PM 20 the middle, so I was driving in the front, Pelon in the middle,
21 and Lobo in the back. Our job was to make sure that no other
22 car got near the car that Pelon was in with the cocaine. And
23 if anything were to happen like if the police were to try to
24 stop Pelon, our job was to, you know, burn the tires or, you
25 know, with our speed or do anything to distract the police so

1 that Pelon would be able to get away with the drugs.

2 Q. All right. The next two pictures, let me show you 65.2.

3 That's Lobo?

4 A. Yes.

5 Q. Okay. And 65.3?

6 A. Lobo.

7 Q. Did Lobo meet with Pelon before you got the kilos?

8 A. Yes.

9 Q. Okay. 65.4. Do you remember when this picture was taken
12:23PM 10 or what time, when in the deal this picture came?

11 MR. LOPEZ: Objection, your Honor.

12 THE COURT: Hold on. He asked does he know when the
13 picture was taken. You can answer that. Overruled.

14 Q. Well, let me try a better question. Is this before you
15 got the kilos?

16 A. That was at the parking lot when we were all getting into
17 the cars that we were going to go in and getting ready.

18 Q. Okay. And you're talking about what you're going to do?

19 A. Yes.

20 Q. All right. And the person on the left of the picture is
21 who?

22 A. The one above?

23 Q. Yes.

24 A. That's me.

25 Q. Who's in the middle?

1 A. Danger.

2 Q. That's your brother?

3 A. Yes.

4 Q. All right. 65.5. Who is this?

5 A. Danger.

6 Q. All right. 65.6. Okay. So after you met in the parking
7 lot, where did you go?

8 A. We went to Route 1. We drove to Route 1, and it was on
9 Route 1 that the person that was going to deliver the drugs to
12:24PM 10 us was waiting, and at Route 1 is where we all organized
11 because we already know who's going to go in the front, who
12 would go in the middle, and who would go in the back.

13 Q. Then what happened?

14 A. The drugs were given to Pelon. Somebody got in the car
15 with the bag, and from there we took off going towards
16 New Hampshire, so that's when I got in the front. I was
17 driving, and Pelon was in the middle and Lobo was in the back.

18 Q. Where did you go?

19 A. To New Hampshire.

12:25PM 20 Q. What happened when you got to New Hampshire?

21 A. Before we got there because we got to the same place where
22 we had delivered the cocaine before, we had already agreed that
23 only Pelon and Crazy would go and that we would park on the
24 other side watching where they were.

25 Q. All right. So this up on the screen is 65.6. Who's in

1 the front seat with Pelon?

2 A. Crazy.

3 Q. This is after you got the cocaine on the way to
4 New Hampshire?

5 A. I think so.

6 Q. When you got to New Hampshire, what happened?

7 A. When we got to New Hampshire, they delivered the drugs --

8 THE INTERPRETER: The cocaine, I'm sorry.

9 A. And they got paid, they took the money and the person that

12:27PM 10 received the cocaine gave us a bunch of cigarettes.

11 Q. Did they give you anything else?

12 A. No.

13 Q. What about the money?

14 A. Yeah, I said the money.

15 Q. The money and cigarettes?

16 A. Yes.

17 Q. So after you dropped off the kilos --

18 A. Yes.

19 Q. -- what happened with the money?

12:27PM 20 A. Pelon got the money, we got the money, and we went back
21 directly to where we had originally met by Burger King in
22 Chelsea.

23 Q. Okay. When you got to the Burger King parking lot, what
24 happened with the money?

25 A. We divided it up. Each person got \$500.

1 MR. POHL: Okay. Can I have 65.8.

2 Q. So tell me about that, Mr. Hernandez Miguel, how did each
3 of you get the \$500?

4 A. We counted the money. It was \$3,000, and there were six
5 dudes, so each one of us had to take \$500, so when we got
6 there, each person got paid in the car.

7 Q. Okay. Who paid the money?

8 A. Pelon was counting the money and passing it over.

9 Q. And all of the people that did this, did they get the
12:29PM 10 money from Pelon in the car?

11 A. Yes.

12 Q. And who is at 65.8?

13 A. Lobo.

14 MR. POHL: All right. You can take it down,
15 thank you.

16 Q. All right. Mr. Hernandez Miguel, after that -- well, let
17 me ask you this: Were you aware of whether anyone on the
18 protection detail with the 5 kilos was armed with a gun?

19 A. I didn't know at the time, but afterwards Pelon said that
12:30PM 20 supposedly --

21 MR. IOVINO: Objection, your Honor.

22 THE COURT: Overruled.

23 A. -- Crazy had a gun.

24 Q. Okay. Had you ever seen Crazy with a gun?

25 A. Yes.

1 Q. When have you seen Crazy with a gun?

2 A. I saw him in Everett with a gun.

3 Q. Okay. Mr. Hernandez Miguel, do you remember a short time
4 after that 5 kilo protection detail, do you remember learning
5 that there was a murder that took place in Chelsea?

6 A. Yes.

7 Q. Okay. Let me ask you this: Did you know about the murder
8 before it happened?

9 A. Yes.

12:31PM 10 Q. Okay. How did you first learn about a plan to commit a
11 murder in Chelsea?

12 A. We were in Everett. It was myself, Crazy, Brujo, Danger,
13 and we were at the garage in Everett.

14 Q. Okay. So just so we're clear --

15 MR. POHL: Can you put up 1.1.

16 Q. The garage where the clique meetings happened, this is
17 1.1.

18 A. Yes.

19 Q. Okay. And the people that you said are present at the
12:32PM 20 garage at this time are yourself and who else?

21 A. It was myself, Danger.

22 Q. Stop right there.

23 MR. POHL: 12. Thank you.

24 Q. That's Danger?

25 A. Danger.

1 Q. Who else?

2 A. Crazy.

3 MR. POHL: 13.

4 Q. That's Crazy?

5 A. Yes.

6 Q. Who else?

7 A. Brujo.

8 MR. POHL: Number 8.

9 Q. Who is that?

12:32PM 10 A. Brujo.

11 Q. Okay. And who else?

12 A. Only those were there.

13 Q. And yourself?

14 A. Yes.

15 Q. Okay. You're at the garage in Everett with those guys.

16 Now, some of those guys are in the Everett clique, correct?

17 A. Yes.

18 Q. Were members of other cliques allowed at your garage?

19 A. Yes.

12:33PM 20 Q. Okay. Why?

21 A. Because even though we're different cliques, we are united
22 under the same two letters.

23 Q. While you were at the garage --

24 THE INTERPRETER: I'm sorry.

25 Q. While you were at the garage, did someone get -- well,

1 what happened next when you were at the garage?

2 A. While we were there at the garage, I heard Crazy talking
3 on the telephone, and he would hang up and get a call again, so
4 I asked Crazy who was calling him, and he told me that --

5 MR. NORKUNAS: Objection, Judge.

6 THE COURT: *Petroziello* objection, is it?

7 MR. NORKUNAS: Yes, and hearsay as well.

8 THE COURT: Overruled.

9 Q. You can answer that question.

12:34PM 10 A. He said that Vida Loca was calling.

11 Q. Okay. Do you know Vida Loca?

12 A. I've seen him a few times.

13 Q. Okay. How do you know Vida Loca?

14 A. He's from the Chelsea clique of MS-13.

15 MR. POHL: Okay. Can I have Exhibit 40 for the
16 witness, Madam Clerk.

17 Q. Do you see that, Mr. Hernandez Miguel? Exhibit 40? Who
18 is that?

19 A. Vida Loca.

12:35PM 20 MR. POHL: I'd move in Exhibit 40.

21 THE COURT: It's admitted, Exhibit 40.

22 (Exhibit No. 40 received into evidence.)

23 Q. Okay. So while you were at the garage, Vida Loca calls
24 Crazy?

25 A. Yes.

1 Q. Okay. What happens next?

2 A. At that moment, Checha was arriving. He supposedly was
3 coming from the bar that had just closed, so Crazy told me that
4 Vida Loca was calling him because he wanted the gun.

5 Q. What gun?

6 A. It was the gun that Crazy had. It belonged to the
7 Everett's clique.

8 Q. Did Crazy have the Everett clique gun on him when you were
9 speaking to him?

12:36PM 10 A. Yes.

11 Q. Okay. Did you see it?

12 A. Yes.

13 MR. POHL: May I approach the witness?

14 THE COURT: Yes.

15 Q. I'm just going to show you this object, which is marked
16 46.1. Do you recognize that?

17 A. Yes.

18 Q. How do you recognize it?

19 A. That was the .380 that Crazy had.

12:37PM 20 Q. Okay. What happened after Vida Loca called asking for
21 Crazy's .380?

22 A. I asked Crazy. He told me that supposedly Vida Loca
23 wanted the gun, and since I heard that Vida Loca was calling
24 Crazy every few minutes, that supposedly the day before someone
25 who sells beer --

1 MR. NORKUNAS: Objection.

2 THE COURT: Hold, hold on, stop there. Put another
3 question to him.

4 MR. NORKUNAS: Your Honor, may I have a general
5 relevance objection to this line of questioning?

6 THE COURT: Yes.

7 MR. MURPHY: Thank you, your Honor.

8 THE COURT: Go ahead.

9 Q. All right. Vida Loca wanted the gun?

12:38PM 10 A. Yes.

11 Q. And did Crazy say why Vida Loca wanted the gun?

12 A. Yes.

13 Q. Okay. And why did Crazy say that Vida Loca wanted the
14 gun?

15 A. Because a day before that, Vida Loca had gone to a house
16 that sells beer, and there he had run into some 18s and
17 allegedly he had had a fight with the 18s there. And when he
18 called Crazy, Vida Loca was saying that the 18s were there
19 again and to bring the gun because he was going to shoot them.

12:39PM 20 Q. What happened next?

21 A. I told Crazy not to bring him the gun because it could be
22 that Vida Loca was drunk or high, and Crazy said no, that dude
23 doesn't even drink.

24 Q. What happened after that?

25 A. Well, since Checha just arrived, we told Checha to bring

1 us, and so Checha put everyone in his car and was going to give
2 them a ride. And on the way, Crazy said that we were going to
3 go directly to Vida Loca, so I said that if they were going
4 over to Vida Loca to drop me off first at my house.

5 Q. Did they do that?

6 A. Yes.

7 Q. When they dropped you off, did they -- so let me ask you
8 this. Who is in the car when you leave the garage? Who is the
9 car when you -- Crazy goes to bring the gun to Vida Loca?

12:40PM 10 A. Crazy had the gun already.

11 Q. Right. And people left the garage to bring the gun to
12 Vida Loca?

13 A. Yes.

14 Q. Okay. And did you all leave together?

15 A. We all left together.

16 Q. Who was in the car when you left?

17 A. Checha was driving, and it was Crazy, Brujo, myself, and
18 Danger.

19 Q. Okay. Crazy had the .380 calibre gun that you just looked
12:41PM 20 at?

21 A. Yes.

22 Q. Did you see whether or not Brujo had anything?

23 A. Yes.

24 Q. What did Brujo have?

25 A. He had a 9 millimeter gun.

1 Q. Had you seen that gun before that day?

2 A. Yes.

3 Q. When had you seen it?

4 A. The gun that Brujo had had been given to him by Umelde
5 from the TLS. He had given it to Brujo to have it because he
6 slept at the garage.

7 Q. And TLS, is that another MS-13 clique?

8 A. Yes.

9 Q. So at the time that you were dropped off, who was in the
12:42PM 10 car?

11 A. Checha, Crazy, Brujo and Danger.

12 Q. Okay. Now, you got out of the car, right?

13 A. Yes.

14 Q. Did you have any other contact with Checha, Brujo, Crazy,
15 Danger that night?

16 A. No.

17 Q. All right. Did anybody tell you what happened that night
18 after you got out of the car?

19 A. Yes.

12:43PM 20 MR. NORKUNAS: Objection, Judge.

21 THE COURT: Overruled.

22 Q. Who was that?

23 A. Brujo.

24 Q. Okay. What did Brujo tell you happened --

25 MR. NORKUNAS: Objection, Judge.

1 Q. -- after you got out of the car?

2 THE COURT: Let me see counsel at sidebar quickly.

3 (THE FOLLOWING OCCURRED AT SIDEBAR:)

4 THE COURT: Am I correct that these statements are
5 within the scope of the *Petroziello* ruling?

6 MS. LAWRENCE: Yes, I believe they are, your Honor, I
7 don't have my motion I believe that there were statements made
8 in to the cooperating witness about this incident.

9 THE COURT: And is there an objection other than that
10 ruling, in other words, the basis other than *Petroziello*?

11 MR. NORKUNAS: The problem, Judge, is this in the
12 discovery that was provided, he's told one week later by Brujo
13 about some sort of the events relative to that, and I think, 1,
14 the government should put that in a time frame one week before
15 the gentleman comes forward and gives his statement.

16 THE COURT: We can do that.

17 MR. NORKUNAS: If you take outside that ruling
18 necessarily because it could have been bravado at that time as
19 to what may or may not happened.

20 THE COURT: All right. I'm going to rule on it.

21 MR. POHL: Thank you.

22 (SIDEBAR CONFERENCE WAS CONCLUDED)

23 THE COURT: Go ahead, Mr. Pohl.

24 MR. POHL: Thank you, your Honor.

25 Q. Can I put up Exhibit Number 8. So, Mr. Hernandez Miguel,

1 I'm showing you Exhibit Number 8. Who is that?

2 A. Brujo.

3 Q. Okay. After you got dropped off, you talked to Brujo?

4 A. The following day.

5 Q. And what did Brujo tell you happened at -- after you got
6 out of the car?

7 A. That they had gone directly to Chelsea and that supposedly
8 Vida Loca was sitting in front of -- on the stairs in front of
9 the house and that Vida Loca said he was going to go in alone
12:45PM 10 and Brujo said, no, that he was going to go in with him because
11 they were from -- they were all MS, and Brujo also had a gun,
12 and so he said that he went in, first Vida Loca went into the
13 house and told Brujo to stay at the door and not let anyone get
14 out, and then Vida Loca went inside to look for the culeros,
15 and then Brujo said he heard a voice outside on the porch, and
16 it was Vincentino, he said.

17 So Brujo said then he went on the porch and was there
18 lighting a cigarette when he heard the shots inside that Vida
19 Loca had fired the shots inside.

12:47PM 20 Q. Then what happened?

21 A. And then Brujo said that he went to the garage and Vida
22 Loca supposedly left with the Everetts.

23 Q. So, before I move on, I just want to make sure that I
24 understand correctly. Your clique is Eastside, correct?

25 A. Yes.

1 Q. Brujo, the person in photo Number 8, what clique is he in?

2 MR. MURPHY: The question has been asked and answered.

3 THE COURT: Overruled.

4 A. Eastside.

5 MR. POHL: Okay. And can I have 40?

6 Q. Vida Loca, what clique is Vida Loca in?

7 A. Chelsea.

8 MR. POHL: And Number 13.

9 Q. And, Crazy, what clique is Crazy in?

12:48PM 10 A. Everetts.

11 Q. Okay. So after the murder and after that conversation
12 with Brujo, was there a meeting of the Eastside clique?

13 A. Yes.

14 Q. Okay. Did that meeting discuss what happened at the
15 murder?

16 A. Yes.

17 Q. Putting up Exhibit 10, who is that?

18 A. Vincentino.

19 Q. Did anything happen at the meeting concerning Vincentino?

12:49PM 20 A. Yes.

21 MR. LOPEZ: Objection, your Honor. Time frame.

22 MR. POHL: I can ask.

23 Q. So how long after the conversation with Brujo, where you
24 talked about the murder, how many days later did you and the
25 other Eastside members meet?

1 A. About a week later or more perhaps.

2 Q. All right. At that -- where did that clique meeting take
3 place?

4 A. At the garage in Everett.

5 Q. Okay. And what was discussed at the clique meeting in
6 Everett?

7 A. The conversation was about Vincentino, about Vida Loca
8 because Vida Loca said he wanted us to give a beating to
9 Vincentino because the day that the chavalas had had a fight
12:50PM 10 with Vida Loca, Vincentino was present, and he didn't get
11 involved to defend Vida Loca. And that's why Vida Loca said he
12 wanted us to give a beating to Vincentino, and that if we
13 didn't do it, then when he got out of Massachusetts, he would
14 figure out how to do it himself and Vida Loca went Crazy.
15 Vida Loca couldn't go out because he was in a house where the
16 Everetts were keeping him because he had committed the murder,
17 so Vida Loca said he was sending Crazy to make sure that the
18 Eastside clique would correct Vincentino.

19 Q. How did the Eastside clique correct Vincentino for not
12:51PM 20 helping Vida Loca?

21 A. We gave him a 13-second beating.

22 Q. How did you do that?

23 A. We put Vincentino in the middle and three homeboys started
24 beating him up for 13 seconds.

25 Q. Okay. And do you remember who did it?

1 A. No, I don't remember.

2 Q. Do you remember who counted?

3 A. Yes.

4 Q. Who counted?

5 A. Casper.

6 Q. Do you remember a few weeks after that an incident
7 involving Lobo?

8 A. Yes.

9 Q. Did you learn that Lobo had been arrested with a gun?

12:52PM 10 MR. IOVINO: Objection, your Honor.

11 THE COURT: Overruled.

12 A. Yes.

13 Q. How did you learn that?

14 A. Because the gun that was taken from Lobo was Tigre's gun.
15 One day Tigre was drunk, and he had the gun, and he shot it by
16 accident inside of a car, so I spoke with Casper, and I told
17 Casper that it would be better to take away the gun that Tigre
18 had. So he told me that I should take it from him, and Playa
19 was arriving at that moment, that was at the garage, so Tigre
20 gave his gun to Playa, and the clique was going to pay Tigre
21 for the money he had spent on the gun so that the gun would
22 become the clique's gun.

23 THE COURT: Just to remind you, ladies and gentlemen,
24 none of the defendants are charged with firearms offenses and
25 firearm offenses are not charged racketeering acts. Go ahead.

1 MR. POHL: Thank you.

2 Q. All right. So, Mr. Hernandez Miguel, did you -- how did
3 the gun get to Lobo?

4 A. Because the runners gave the gun to Lobo because
5 supposedly one day at Roy Jack, a bar, the chavalas had fired
6 shots at Lobo.

7 MR. MURPHY: Objection, your Honor.

8 THE COURT: I'll allow this testimony not for the
9 truth of the matter, that is, not that shots were fired at
12:55PM 10 Lobo, but that this was the reason given and for that purpose
11 only.

12 A. I'm sorry. I missed the question.

13 Q. I think you left off shots were fired at Lobo and why
14 would the facts that shots were fired at Lobo result in Lobo
15 getting a gun?

16 MR. IOVINO: Objection.

17 THE COURT: Overruled.

18 A. Because if he had been shot at once, it could happen
19 again, and if he had a gun, then he could also shoot.

12:55PM 20 Q. Okay.

21 THE COURT: Let me just take a moment and explain my
22 ruling a little bit. The testimony that I've permitted is the
23 understanding or the report that shots had been fired at Lobo.
24 That's not the same as proof that shots were actually fired at
25 Lobo.

1 Let me give an example to try to illustrate that. So
2 suppose somebody opened the door to the courtroom and said,
3 "The courthouse is on fire, you need to evacuate." And later
4 on somebody said, "Why did you evacuate the building?" And you
5 say, "Because somebody told me that the courthouse fire."
6 That's not proof that there was ever a fire.

7 In other words, you couldn't deduce from that the
8 building was on fire, but somebody said something, and so you
9 took an action in response whether it was true or not.

12:56PM 10 Here, I'm permitting it not as proof that shots were
11 actually fired at Lobo, but that members or alleged members of
12 the conspiracy were told that. Go ahead.

13 MR. POHL: Thank you, your Honor.

14 Q. Are you familiar with Lobo's -- do you know what Lobo's
15 gun looks like?

16 A. Yes.

17 Q. Had you seen it?

18 A. Yes.

19 MR. POHL: May I approach the witness?

12:57PM 20 Q. I'm showing you what's been marked as Exhibit Number 69.
21 Do you recognize that?

22 A. Yes.

23 Q. What is it?

24 A. That's the .9 millimeter, that is a .9 millimeter gun that
25 was taken from Lobo.

1 Q. Okay. After the gun was taken from Lobo, did the clique
2 talk about the fact that the gun was taken from Lobo?

3 A. Yes.

4 Q. Okay. And when did you do that -- well, how did you do
5 that?

6 A. At a meeting.

7 Q. Okay. So I think we're probably going to get to that
8 tomorrow, but let me jump ahead to ask you about another
9 conversation that you had with Lobo. Okay. Did you and Lobo
12:58PM 10 ever talk about the fact that he was arrested with the gun?

11 A. Yes.

12 Q. Okay. Yes or no, did you talk about that after your
13 arrest in this case?

14 A. Yes.

15 Q. Okay. And what did you and Lobo talk about concerning his
16 arrest with the gun?

17 MR. IOVINO: Objection.

18 THE COURT: Why don't break there for the DAY, because
19 I'm going to need to rule on that objection.

12:59PM 20 All right. Ladies and gentlemen, remember my cautions
21 not to discuss the case among yourselves or with anyone else or
22 to look at or listen to any media reports. Tomorrow will be a
23 normal schedule, so we'll start hopefully at 9:00.

24 THE CLERK: All rise.

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2 C E R T I F I C A T E

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4 UNITED STATES DISTRICT COURT)

5 DISTRICT OF MASSACHUSETTS) ss.

6 CITY OF BOSTON)

7

8 I do hereby certify that the foregoing transcript was
9 recorded by me stenographically at the time and place aforesaid
10 in Criminal Action No. 15-10338-FDS, UNITED STATES vs. HERZZON
11 SANDOVAL, et al., and thereafter by me reduced to typewriting
12 and is a true and accurate record of the proceedings.

13 Dated this 7th day of February, 2018.

14 s/s Valerie A. O'Hara

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16 VALERIE A. O'HARA

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OFFICIAL COURT REPORTER

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